REPORT BY THE AUDITOR GENERAL OF CALIFORNIA

A REVIEW OF THE SEVEN DEVELOPMENTAL CENTERS OPERATED BY THE DEPARTMENT OF DEVELOPMENTAL SERVICES

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A Review of the Seven Developmental Centers Operated by the Department of Developmental Services

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Office of the Auditor General
California

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Honorable Robert J. Campbell, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2163
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the delivery of care provided by the Department of Developmental Services (department) to clients under age 18 residing in the seven developmental centers throughout the State. The report states that the department needs to ensure that staff obtain proper consents and approvals before using restraints on clients. In addition, the report states that the developmental centers are generally meeting federal and state staffing standards; however, the department needs to revise the local minimum staffing guidelines at each developmental center to ensure that all the developmental centers fully comply with federal and state staffing standards. Further, the department needs to take appropriate action to minimize the diversion of direct care staff to perform nonclient care duties. Finally, the department needs to ensure that staff at the developmental centers are recording the clients' progress toward reaching objectives listed in their individual program plans and their individualized education programs.

Respectfully submitted,

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Summary

Results in Brief

The Department of Developmental Services (department) provides care and treatment to persons with developmental disabilities directly through seven developmental centers. During our review of the care provided to clients under age 18 at these developmental centers, we noted the following conditions:

- Developmental center staff sometimes used physical and chemical restraints on clients without first obtaining the consent of the client or the clients' parents or guardians;

- Staff sometimes applied restraints without first obtaining the approval of committees designed to ensure that clients are not subjected to unnecessary or excessive restraint;

- Staff did not always properly record the use of restraint on clients and did not always record the periodic assessment of the clients' condition while in restraint, contrary to state and federal regulations;

- Staff sometimes kept clients in restraint for periods in excess of the maximum time allowed by federal regulation and developmental center policy;

- Developmental centers are generally meeting the federal and state staffing standards we tested for direct care staff; however, they are not meeting the staffing guidelines established by the department;

- Direct care staff at the developmental centers are sometimes diverted to perform duties that are not directly related to client care;

- Staff at the developmental centers are not always documenting the implementation of clients' Individual Program Plans;

- Staff at the developmental centers are not always documenting clients' progress toward accomplishing objectives established in clients' Individualized Education Programs; and

- Staff at the developmental centers are following proper procedures when reporting special incidents to management within the developmental center.

Background

The department is responsible for administering the Lanterman Developmental Disabilities Services Act (Lanterman Act). The intent of the Lanterman Act is to ensure that services are provided to persons with developmental disabilities and to ensure that those services are planned and provided as a part of a continuum of care that is sufficient to meet the needs of developmentally disabled persons regardless of their age or handicap. According to the Lanterman Act, developmental disabilities include mental retardation, cerebral palsy, epilepsy, and autism. Also included are handicaps closely related to mental retardation and handicaps that require treatment similar to that used for mental retardation.

A person with a developmental disability is eligible to receive services from the department if the disability originates before the person is 18 years old, if the condition is expected to continue indefinitely, and if the disability constitutes a substantial handicap. The department provides services to persons with developmental disabilities through a statewide system of 21 private, nonprofit regional centers and seven developmental centers. The seven developmental centers are Agnews, Camarillo, Fairview, Lanterman, Porterville, Sonoma, and Stockton.

According to data obtained from the department, the total population of clients in the seven developmental centers has increased 6 percent from 6,049 clients at the end of fiscal year 1986-87 to 6,439 clients at the end of fiscal year 1989-90. Further, during the same time period, the population of clients under age 18 has increased 16 percent from 486 clients in fiscal year 1986-87 to 562 clients in fiscal year 1989-90.

One reason for the population increase at the developmental centers is that some community care facilities have closed. For example, in October 1989, a community care facility closed in Orange County, requiring the immediate relocation of 36 residents. Because of a scarcity of appropriate community care facilities to provide residential services to the clients, the department admitted 32 of the facility's 36 clients to developmental centers.

Developmental Centers Are Not Fully Protecting Clients' Rights To Be Free From Excessive Restraint

Both state and federal laws specify the rights of persons with developmental disabilities. These laws contain prohibitions against the use of unnecessary physical restraint and the use of excessive medication on persons with developmental disabilities. During our review of client records at the seven developmental centers, we found that staff are not complying with state law and state and federal regulations or with their own policies. For example, staff have used physical and chemical restraints without always obtaining the consent of the client or the clients' parents or guardians as required. In addition, we found that staff sometimes applied restraints without the required approval of committees designed to ensure that clients are not unnecessarily or excessively restrained.

State regulations require staff to periodically assess clients in physical restraint. In addition, the regulations require staff to record each use of physical restraint. Staff did not always properly record the use of restraint, nor did staff always record that they had periodically assessed the condition of clients in restraint. Further, we found that staff at some of the developmental centers kept some clients in restraint for periods in excess of the maximum periods allowable in federal regulations.

The failure of developmental centers to adhere to the requirements governing the use of restraints may result in unnecessary or excessive application of restraint, thus violating the rights of clients at the developmental centers.

Developmental Centers Are Meeting Most Staffing Standards

Both the federal government and the State have established regulations concerning the minimum number of staff needed to deliver services to developmental center clients in residential units. We found that the developmental centers are generally meeting both the federal and state staffing standards we tested; however, none of the developmental centers are meeting the department's staffing guidelines.

Specifically, five of the developmental centers met the federal and state standards during the time periods we reviewed. In addition, the remaining two developmental centers that did not always meet the standards were below the minimum staffing levels for only a few days in the review period. For example, Porterville Developmental Center did not meet the federal standard for two of the days we reviewed, and Fairview Developmental Center did not meet the standard for one of the days we reviewed.

In addition to the federal and state staffing standards, the department has established its own staffing guidelines for the developmental centers. These guidelines are based upon the needs of the clients residing in the developmental centers. During the period of our review, none of the developmental centers met these staffing guidelines.

When direct care staff levels fall below the legally established minimums or the department's staffing guidelines, the developmental centers may not have sufficient direct care staff to provide the level of direct care necessary to meet the needs of clients. Furthermore, if the developmental centers do not comply with the staffing standards required by law, they also face the potential loss of both their licenses to operate and their certification to receive federal funding.

Direct Care Staff Are Not Always Performing Duties Related to Client Care

Both federal and state regulations state that direct care staff should not perform duties that interfere with direct client care. We conducted a survey of shift supervisors at the seven developmental centers to determine if direct care staff are diverted to perform nonclient care duties. The survey results indicated that direct care staff at developmental centers had been diverted to perform duties that are not directly related to client care. These duties included housekeeping, laundry, food preparation, and janitorial services. The majority of diverted staff are diverted for only a portion of their shift. However, some survey respondents stated that staff had been diverted for a full shift and may have been counted toward the legal minimum number of direct care staff required in the unit. When the developmental centers divert direct care staff to perform nonclient care duties, clients may not receive necessary direct staff attention and their safety may be in jeopardy.

Developmental Centers Are Not Always Documenting the Implementation of Their Clients' Program Plans

Staff at the developmental centers are not always documenting clients' progress toward reaching the objectives identified in their Individual Program Plans (IPP). Similarly, staff are not always documenting clients' progress toward meeting goals listed in the clients' Individualized Education Programs (IEP). For example, we reviewed 107 client records and found 17 instances where staff had not properly documented clients' progress toward meeting goals listed in the clients' IPPs. Similarly, we reviewed IEPs for 63 clients and identified 8 instances where staff did not always document their clients' progress toward meeting goals in the IEP.

Without such documentation, the staff at the developmental centers cannot ensure that the interdisciplinary teams will have sufficient information to assess the effectiveness of the clients' current programs. Furthermore, they may not respond to the changing needs of each client and may be hindered when making decisions about updating the clients' programs.

Developmental Centers Are Following Procedures for Reporting Special Incidents

To ensure that immediate attention is given to any inappropriate activities by clients or employees at the developmental centers, the department established a policy requiring each developmental center to maintain a special incident reporting system. We reviewed 142 special incident reports at the seven developmental centers and found that staff followed proper procedures for reporting the incidents to management within the developmental center.

Recommendations

To improve its ability to protect the rights of clients under age 18 residing at the developmental centers, the Department of Developmental Services should take the following actions:

- Ensure that staff obtain proper consent or approval before applying physical or chemical restraints;
- Establish a policy specifying what form of communication must be used and how that communication should be documented when developmental center staff contact the client, parents, or guardians for consent before using restraints on clients;
- Ensure that each developmental center develops and uses a procedure requiring the appropriate committees to promptly review and approve or disapprove the continuation of restraints used on clients before their admission;
- Ensure that staff at each developmental center record the use of restraint on clients and the periodic assessment of the condition of clients in restraint; and
- Ensure developmental centers do not exceed regulatory time limits for the application of physical restraints on clients.

Ensure that the developmental centers are staffing residential units in accordance with legal requirements and the department's own standards.

To prevent the diversion of direct care staff to perform nonclient care duties, the department should take the following actions:

- Follow up on our survey results to determine the specific reasons why direct care staff are diverted to nonclient care duties; and

- Take appropriate action to minimize unnecessary direct care staff diversion, such as requiring the developmental centers to provide support staff on each shift and ensuring sufficient coverage when support staff are scheduled off or are absent because of illness.

Finally, to ensure that clients' records accurately reflect the clients' actual progress, the department should ensure that staff at the developmental centers are recording the clients' progress toward reaching objectives specified in the clients' IPPs and IEPs.

Agency Comments

Although the department believes that certain comments in the report need clarification, it agrees with all of our recommendations. Furthermore, the department indicates that it is committed to implementing corrective action and, in some cases, has already begun to implement some of the recommendations listed in the report.

Introduction

The Department of Developmental Services (department) is responsible for administering the Lanterman Developmental Disabilities Services Act (Lanterman Act). The Lanterman Act states that services should be provided to persons with developmental disabilities and that those services should be planned and provided as a part of a continuum of care that is sufficient to meet the needs of developmentally disabled persons regardless of their age or handicap. The act also states that, as much as possible, these goals should be accomplished without dislocating persons with developmental disabilities from their home communities. The department administers the Lanterman Act through two programs: the Community Services Program and the Developmental Centers Program. The Community Services Program develops and maintains a complete continuum of care for developmentally disabled persons residing in the community. The department operates this program primarily through a statewide network of 21 private, nonprofit regional centers. The Developmental Centers Program provides care, treatment, and services to developmentally disabled persons residing in seven developmental centers located throughout the State.

According to the Lanterman Act, Section 4500 et seq. of the Welfare and Institutions Code, developmental disabilities include mental retardation, cerebral palsy, epilepsy, and autism. Also included are handicaps closely related to mental retardation and handicaps that require treatment similar to that used for mental retardation. A person with a developmental disability is eligible to receive services from the department if the disability originates before the person is 18 years old, if the condition is expected to continue indefinitely, and if the disability constitutes a substantial handicap.

Admissions to Developmental Centers

The Legislature created the Developmental Disabilities Service Delivery System (system) through the Lanterman Act. The department administers the system and thereby delivers services to more than 91,000 people through contracts with the 21 regional centers and through the operation of the seven developmental centers. Clients are referred to developmental centers by the regional centers, the county mental health departments, or the judicial system. Admissions to developmental centers usually originate with a request from a regional center; however, some clients are admitted as the direct result of a court order. An admission through a court order usually occurs when there is a need to evaluate the person's competency to stand trial on criminal charges, when a person's incompetency has been established, or when an individual commits a crime and is found "not guilty by reasons of insanity."

The seven developmental centers--Agnews, Camarillo, Fairview, Lanterman, Porterville, Sonoma, and Stockton--provide services such as training, care, and supervision for all clients on a 24-hour basis. Services include the provision of appropriate medical, nursing, and dental care; educational and other skill-development programs; and programs designed to facilitate the growth and ensure the safety of all clients.

Staff at each of the developmental centers include physicians, psychologists, teachers, social workers, rehabilitation therapists, speech pathologists, audiologists, nurses, and psychiatric technicians. Through an interdisciplinary team, the staff develop and implement an individualized plan designed to promote positive growth for each client. Further, staff at the developmental centers continually evaluate the effectiveness of the care and treatment provided to each of the clients.

Population Trends

The total number of clients residing in the State's seven developmental centers has increased slightly between fiscal year 1986-87 and fiscal year 1989-90. According to data obtained from the department, the total population of clients in the seven

developmental centers at the end of fiscal year 1986-87 was 6,049 while the population was 6,439 clients at the end of fiscal year 1989-90--a 6 percent increase.

While the total population of clients residing in the developmental centers has increased slightly in recent years, the population of clients under age 18 has increased at a greater rate during the same period. Specifically, the population of clients under age 18 increased 16 percent from 486 clients in fiscal year 1986-87 to 562 clients in fiscal year 1989-90.

The total population of clients has increased in recent years because the number of clients admitted to the developmental centers has exceeded the number of clients placed from the developmental centers into community care facilities. As Table 1 shows, in each of the last three fiscal years, the department has admitted more clients into the developmental centers than it has placed from the developmental centers into community care facilities. For example, in fiscal 1989-90, the department placed 408 clients from the developmental centers into community care facilities while, during the same year, the department admitted 482 clients to the developmental centers.

Table 1 **Department of Developmental Services**
Community Placement Plan
Placement Goals and Actual Placements
Fiscal Year 1986-87 Through 1989-90

	1986-87	1987-88	1988-89	1989-90	Total
Community Placement Goal	600	550	505	530	2,185
Actual Placements	505	467	524	408	1,904
Number of Developmental Center Admissions	436	506	536	482	1,960

One of the reasons that the number of clients admitted to the developmental centers has exceeded the number of clients placed into community care facilities in recent years is that the placement

of clients out of the developmental centers into community care facilities has been slower than expected. We reviewed the placement goals the department set and found that the department has not always met the goals it set in its Community Placement Plan (CPP). We also reported this conclusion in our report entitled, "The Lack of Community Facilities Limits the Placement of Persons With Developmental Disabilities," Report P-709, December 1987. The purpose of the CPP is to identify clients in the state developmental centers who no longer need the services provided in such settings and to place these clients into community facilities. As shown in Table 1, the department has only met its goal for community placements in one of the past four fiscal years. Moreover, the department has not met its placement goals in five of the six years since the implementation of the CPP in fiscal year 1984-85.

According to the department, another reason for the increase in the number of clients is that some community care facilities have closed. When a community care facility closes and no other community care facility is available that can provide the appropriate services, the clients are placed into a developmental center. For example, in October of 1989, a community care facility in Orange County closed because of financial difficulties. The closure required the immediate relocation of 36 residents. Because of a scarcity of appropriate residential community care facilities, the department admitted 32 of the facility's 36 clients to developmental centers. In addition, the department reported in October 1989 that, from July 1987 through July 1989, it admitted 137 clients to developmental centers because of community facility closures mostly due to licensing violations. Furthermore, the department stated that only 14 of these clients had been placed back into community care facilities.

Licensing and Certification

The Department of Health Services' Licensing and Certification Program regulates the quality of care in hospitals, clinics, long-term care facilities, and other health agencies throughout the State. Program staff are responsible for monitoring and evaluating facility conditions; citing deficiencies; approving plans to correct

deficiencies; and issuing, denying, or revoking licenses. In addition, the program staff perform certification reviews for the federal government at facilities that seek to be certified for Medicare or Medi-Cal funding.

Each residential unit at the State's developmental centers is licensed under one of three categories listed in Title 22 of the California Code of Regulations. The three licensure categories are "general acute care hospital," "skilled nursing facility," and "intermediate care facility for developmentally disabled." Units at the developmental centers that are licensed as general acute care hospitals provide 24-hour inpatient care including medical, nursing, surgical, laboratory, pharmacy, and dietary services. Similarly, units at the developmental centers that are licensed as skilled nursing facilities provide continuous skilled nursing care and supportive care to patients on an extended basis. Finally, an intermediate care facility for the developmentally disabled is a facility whose primary purpose is to furnish health or rehabilitative services to persons with developmental disabilities.

Staff in the Department of Health Services' Licensing and Certification Program conduct annual surveys at each of the developmental centers to ensure that the centers comply with federal and state laws and regulations. The staff review several items during the surveys including the protection of resident rights, quality of care, physical environment, development and implementation of Individual Program Plans, staffing levels, and physician and nursing services. In addition, program staff may investigate complaints they receive or incidents that occur at the developmental centers. Upon completion of a survey or an investigation, the Department of Health Services may issue a Statement of Deficiencies or a citation if the center violated federal or state laws and regulations.

Accreditation

The Accreditation Council on Services for People With Developmental Disabilities (ACDD) is a national organization whose primary goal is to improve the quality of life for people with developmental disabilities. Some of the ACDD's activities include developing and continually refining a set of standards for services provided to individuals with developmental disabilities, conducting surveys to assess agencies' compliance with these standards, and offering training and technical assistance to persons who provide services to developmentally disabled individuals. Although accreditation by the ACDD is not required, the department encourages its seven developmental centers to achieve and to maintain their accreditation status by choosing to be evaluated by the ACDD.

During calendar year 1990, the ACDD reviewed six of the seven developmental centers. As Table 2 shows, three of these centers--Camarillo, Lanterman, and Porterville--received one-year accreditations. However, the ACDD has deferred its accreditation decision for Fairview and Sonoma developmental centers for one year. The ACDD defers an accreditation decision when a facility that is currently accredited needs to make substantial improvements that the ACDD believes can be accomplished within a specific time frame. If, at the end of a deferral period, which is usually one year, the facility still does not meet the ACDD standards, it may lose its accreditation. After a two-year deferral period, Agnews Developmental Center lost its accreditation in 1990. The remaining center, Stockton, is scheduled for its next review by the ACDD in May 1991.

Table 2 **Status of Accreditation for California's Developmental Centers by the Accreditation Council on Services for People With Developmental Disabilities**

Developmental Center	Survey Date	Survey Result
Agnews	December 1990	Not Accredited
Camarillo	May 1990	1-Year Accreditation
Fairview	October 1990	Deferred Accreditation*
Lanterman	November 1990	1-Year Accreditation
Porterville	October 1990	1-Year Accreditation
Sonoma	June 1990	Deferred Accreditation*
Stockton	May 1989**	2-Year Accreditation

*An accredited agency that receives a deferred decision retains its accreditation status until the expiration date of the deferral.

**Stockton Developmental Center is scheduled for review in May 1991.

Scope and Methodology

The purpose of this audit was to review and evaluate the delivery of care provided by the department to clients under age 18 residing in the seven developmental centers throughout the State. We reviewed the protection of clients' rights as the protection pertains to the use of highly restrictive interventions. Highly restrictive interventions are forms of restraint that are used to modify behavior but that can cause pain or trauma. We also reviewed the staffing levels in the units where clients under age 18 reside, the implementation of the clients' program and education plans, and the process for reporting special incidents. We also reviewed the factors that staff at the developmental centers consider to determine what residential unit clients will be placed into, the types of training the developmental centers provide to staff, and the actions Sonoma Developmental Center has taken to address complaints made against it by parents and other interested parties.

To determine whether the developmental centers are complying with federal and state laws and regulations governing the use of highly restrictive interventions, we reviewed a sample of 84 client records. We selected a portion of this sample from lists of clients approved by the developmental centers for the use of highly restrictive interventions. We selected the remaining clients in our

sample at random from a listing of all clients under age 18 provided by the department for three of the seven developmental centers. We did not test the accuracy or completeness of the department's listing.

To determine whether the developmental centers are complying with certain federal and state staffing standards, we reviewed various attendance records for the intermediate care unit where the largest number of clients under age 18 reside at each developmental center. At three of the seven developmental centers, we reviewed the attendance records for the last month of each quarter of fiscal year 1989-90. At the remaining four developmental centers, we reviewed the attendance records for the same months; however, instead of reviewing the records for the entire month, we reviewed one week from each of the four months.

As part of our review of staffing levels, we also determined whether direct care staff are diverted to perform nonclient care duties. We conducted a survey of shift supervisors for every unit where clients under age 18 reside at each of the seven developmental centers. In addition, we telephoned some of the respondents to obtain additional information about the diversions.

To determine whether the developmental centers were properly implementing the objectives identified in clients' Individual Program Plans, we selected a random sample of 107 client records at the seven developmental centers from department listings of clients under age 18. We did not test the accuracy or completeness of the department's listing.

To determine whether the developmental centers were properly implementing the clients' progress toward meeting objectives identified in the clients' Individualized Education Programs, we reviewed a random sample of 63 client records at three developmental centers, Agnews, Lanterman, and Sonoma. We selected these three developmental centers because, according to the department's listing, the largest number of clients under age 18 reside at these facilities. We selected the sample using the same listing of clients that the department provided for our review of Individual Program Plans.

To determine whether the developmental centers are properly reporting special incidents to management within the developmental centers, we reviewed a sample of 142 special incident reports at all seven developmental centers.

We reviewed the results of licensing surveys conducted by the Department of Health Services' Licensing and Certification division and the ACDD to determine if the surveys revealed any additional information related to the protection of clients' rights, the staffing levels at the developmental centers, and the implementation of program and education plans. In addition, we reviewed complaints the Department of Health Services investigated and any citations it issued from fiscal year 1986-87 through fiscal year 1989-90.

Finally, we interviewed staff and management at the developmental centers and at the department's headquarters, parents of some of the clients residing at the developmental centers, and various interest groups.

Appendix A presents the results of additional audit tests we conducted at some of the developmental centers. We conducted these additional audit tests to answer questions raised by interested parties including parents of some of the clients at the developmental centers.

Appendix B provides more detailed descriptions of the methodologies we used to conduct the analyses discussed in the report. In addition, for the results we present in Appendix A, Appendix B provides descriptions of our methodologies.

Chapter 1 Developmental Centers Are Not Fully Protecting Clients' Rights To Be Free From Excessive Restraint

Chapter Summary

State laws and regulations specify the rights of individuals with developmental disabilities. These laws and regulations include provisions stating that individuals with developmental disabilities have a right to be free from harm. The provisions include prohibitions against the use of unnecessary restraint or excessive medication. However, state and federal regulations specify certain conditions under which physical and chemical restraints may be applied to control clients' behaviors. In addition, each developmental center has established its own policies for the application and documentation of the use of physical and chemical restraints.

During our review, we found that staff at the developmental centers are not always complying with state and federal laws and regulations or with their own policies. For example, in our review of client records at the seven developmental centers, we found that staff have sometimes used physical and chemical restraints without the consent of the clients or the clients' parents or guardians, as required. In some cases, we found that staff applied restraints without the required approval of the committees designed to ensure that clients are not unnecessarily or excessively restrained.

We also found instances where staff at developmental centers did not always properly record the use of restraint on clients nor did staff always record that they had periodically assessed the condition of clients in restraint. Finally, we found that staff kept some clients in restraint for periods in excess of the maximum periods allowable in the developmental center's policy. The failure of developmental centers to adhere to the requirements

governing the use of restraint can result in the unnecessary or excessive application of restraint, constituting a serious curtailment of clients' rights.

Developmental Centers Do Not Always Obtain Required Consents and Approvals for the Use of Restraints

In our review, we found that staff are not always obtaining the required consents from the clients or the clients' parents or guardians or approvals from the appropriate developmental center committees before using restraints on clients. The involvement of parents and the professionals on the committees is the primary way that developmental centers can protect clients from unnecessary or excessive restraint. Because the developmental centers failed to always obtain these consents and approvals before using restraints, the clients' rights to be free from unnecessary or excessive restraint may have been jeopardized.

Background

Sections 4502 and 4503 of the Welfare and Institutions Code and Title 17, Section 50510 of the California Code of Regulations (CCR) state that clients have a right to be free from harm including unnecessary restraint or excessive medication and that clients can refuse consent for the use of behavior modification techniques that cause pain or trauma. In addition, Title 22, Section 76525 of the CCR specifies that developmental centers may use behavior modification techniques only after securing the written, informed consent of the clients or the clients' parents or guardians. For the purposes of consistency, in the remainder of this report, we will refer to all behavior modification techniques that may cause pain or trauma as highly restrictive interventions (HRI). To comply with state laws and regulations, all seven developmental centers have established policies that require either the consent of clients' parents or guardians or the consent of a developmental center professional before the programmed use of HRIs. HRIs include such restraint methods as tying a client's arms and legs to a chair, placing a client in a room with the door held closed, physically holding a client against a wall or floor, and administering medication for behavior management.

Programmed use of HRIs refers to restraint applied as part of a planned, organized approach to treatment that includes a behavior management plan describing the form of restraint for the modification of a client's behavior. Programmed use does not include restraint used under emergency circumstances when clients exhibit unexpected behaviors that endanger themselves or others. Programmed use also does not include the use of restraint for medical purposes such as restraint to prevent a client from removing an intravenous needle used in a medical procedure.

Through state regulation, the department has sought to protect clients' rights by establishing two committees at each developmental center. The committees are responsible for reviewing behavior management plans that include HRIs and ensuring that the plans do not infringe on clients' rights. Title 17, Section 50802 of the CCR specifies that either a qualified professional or a Behavior Modification Review Committee at the developmental centers must approve the programmed use of HRIs before they are applied to a client. In addition, Title 22, Section 76525 of the CCR specifies that a Human Rights Committee at each developmental center must review and approve plans for the use of HRIs on clients.

All seven of the developmental centers use a Behavior Modification Review Committee, commonly referred to as a Behavior Management Committee, instead of a qualified professional to review and approve behavior management plans. A Behavior Management Committee is composed of at least three persons, one of whom is licensed by the State to practice behavior modification programs, another is a California licensed physician, and a third is a client's rights advocate. Behavior Management Committees are responsible for, among other things, ensuring that the least restrictive form of restraint necessary is used on each client and that the clients or parents or guardians of clients have provided consent for the use of the programmed HRIs.

In addition to the Behavior Management Committee, each developmental center has a Human Rights Committee that is responsible for safeguarding the rights of clients, including the

right to refuse the use of programmed HRIs. Title 22, Section 76523 of the CCR requires that the Human Rights Committee consist of at least an administrator, program director, registered nurse in charge of nursing services, a client's rights advocate from a regional center or a developmental center as applicable, a client representative, and a parent or community representative.

The Process for the Development and Approval of Behavior Management Plans: In protecting a client's right to be free from harm, developmental centers must protect the client from both physical harm and from unnecessary or excessive restraint. These requirements are potentially conflicting. When clients' behaviors are self-abusive or violent toward others, staff must attempt to apply only sufficient restraint to prevent the clients from hurting themselves or others but not so much as to infringe on the clients' rights to be free from unnecessary or excessive restraint.

The developmental centers have a system for managing client behaviors that includes the client's interdisciplinary team, a Behavior Management Committee, a Human Rights Committee, and the involvement of the client's parents or guardian. Each client's interdisciplinary team is composed of professionals such as the client's program director, a clinical psychologist, and direct care staff. The Interdisciplinary Team prepares a client's Individual Program Plan, including the behavior management plan. If the behavior management plan includes HRIs, it is then submitted to the Behavior Management Committee and the Human Rights Committee for approval.

The purpose of a behavior management plan is to establish a comprehensive approach to address a client's behavior problems. Such plans must include, among other things, the type of HRIs that staff will use when a client's behavior becomes dangerous to the client or others. In addition, the plan must include provisions to move a client to less restrictive physical restraints and include steps to decrease and eventually eliminate the use of chemical restraints.

Before either of the committees can approve a behavior management plan that includes the use of an HRI, developmental center staff must attempt to obtain the consent of the client's parents or guardian or the consent of the client if the client is over the age of 15. For instances when the client's parents or guardian cannot be located, three of the seven developmental centers have established policies that allow a member of the developmental center staff, such as the clinical director, to provide consent for the use of HRIs. Three developmental centers do not specifically allow anyone but the client or the client's parents or guardian to consent to the use of HRIs. The remaining developmental center does not specify that an attempt must first be made to obtain consent from the client or the client's parents or guardian before developmental center staff can provide consent.

Although the developmental centers have established these policies, we noted that Title 22, Section 76525 of the CCR states that the developmental centers may use HRIs only after obtaining consent from the clients or the clients' parents or guardians. As a result, we asked the department to review their policies for the use of HRIs to determine if such policies are legally adequate. In response to our request, the deputy director of the Developmental Centers Division has asked each of the executive directors at the seven developmental centers to review their policies regarding consent. The deputy director has also asked that the department's legal office be involved in the review of this matter.

Sample Size and Selection: We reviewed the clinical records of 84 of the approximately 576 clients under age 18 at the seven developmental centers to determine if the centers were adhering to the requirements of law, regulation, and their own policies concerning consent and approval for and application of restraint during the period from February 1989 to October 1990. As part of our sampling procedure, we obtained from each of the developmental centers, listings of clients who, at the time of our review, were under age 18 and were approved by the Behavior Management Committee for the use of HRIs. Using these

listings, we identified 98 clients and selected a random sample of 55 of those clients. We selected the remaining 29 clients in our sample of 84 at random from the population of clients under age 18 at Sonoma, Lanterman, and Agnews developmental centers.

Results of Our Review

Our review disclosed that staff at six of the seven developmental centers applied programmed HRIs either without the consent of the clients or the clients' parents or guardians or without any indication that staff had attempted to contact the clients' parents or guardians for consent. Further, staff at six of the developmental centers applied HRIs to clients without the approval of either the Behavior Management Committee, the Human Rights Committee, or both.

Lack of Parental or Guardian Consent: During our review of the clinical records for the 84 clients in our sample, we found that staff at six of the seven developmental centers applied restraint to 22 clients without consent from the clients or the clients' parents or guardians. Furthermore, in 21 of these 22 cases, no one provided consent for the use of the restraint, while, in the remaining case, a member of the developmental center staff provided consent. However, we could find no record to indicate that staff had attempted to contact the client's parents or guardian before the staff member provided the consent.

One instance of failure to obtain parental or guardian consent occurred between June 1990 and November 1990 when staff at Stockton Developmental Center held a client in the prone position four times for ten minutes each time. Although the use of this restraint was part of the client's behavior management plan, the developmental center had never obtained any form of consent for its use.

In another example, at Fairview Developmental Center, between February 1990 and September 1990, staff gave drugs to a client to modify her behavior. In January 1990, the clinical director at the developmental center provided consent for the use of the drugs. However, during our review, staff at the developmental center could not demonstrate that they had made any attempt to contact the client's parents until five months after the clinical director provided consent although the developmental center's policy required that they do so before obtaining the consent from the clinical director. Furthermore, a document provided by the client's regional center, dated December 1989, showed the address of the client's mother and stated that she was available for signatures as needed.

The Department of Health Services (DHS) also found that staff at Fairview Developmental Center do not always obtain proper consents before applying HRIs to clients. As part of a survey that the DHS conducted in September 1989 to determine the facility's fitness to be certified for participation in the Medicaid program, the DHS reported that Fairview Developmental Center gave a behavior modification medication to a client without a current consent on file. As a result of the September 1989 survey, the local DHS licensing and certification office recommended to the DHS Provider Certification Section that Fairview be decertified for participation in the Medicaid program. The Fairview executive director promptly presented a plan of correction to the DHS and avoided decertification. However, as our example on the previous page indicates, Fairview still does not always obtain proper consent before staff apply restraint to clients.

In addition to staff applying HRIs without proper consent, we also found that Behavior Management Committees and Human Rights Committees approved behavior management plans that included HRIs even though staff had not first obtained consent from clients or clients' parents or guardians for the use of the HRIs. Specifically, we found that the Behavior Management Committee or the Human Rights Committee at six developmental centers approved the use of restraint for 17 of the 22 clients who were placed in restraint without proper consent. At Lanterman

Developmental Center, for example, staff gave a drug to a client for behavior modification every day between November 3, 1989, and September 27, 1990. The Behavior Management Committee approved the use of the drug on October 26, 1989, and the Human Rights Committee approved it on November 3, 1989, even though staff never obtained consent from the client's parents for the use of the drug during this period. According to the executive director, Lanterman Developmental Center did not require the Behavior Management Committee and the Human Rights Committee to ensure that consent for the use of HRIs had been obtained before the committees approved such interventions. The executive director indicated that, as of November 1990, he has required the committees to ensure that staff obtain proper consent before the committees approve HRIs.

One reason the developmental centers do not always obtain proper consents is that staff at the developmental centers are uncertain as to what constitutes proper consent. For example, the executive director at Lanterman Developmental Center stated that staff believed that since the medical director of the center is authorized to provide consent for medical or surgical procedures, she could also provide consent for the use of restraint on clients.

We found further evidence of this kind of confusion at other developmental centers. For example, the policy at Agnews Developmental Center allows the medical director to provide consent and at Camarillo Developmental Center the program director can provide consent. The policies at Lanterman and Sonoma Developmental Centers, however, specify that only the clients' parents or guardians can consent while the policy at Stockton Developmental Center does not explain what to do if clients' parents or guardians cannot be located.

Furthermore, the executive directors at two of the developmental centers stated that staff were unclear as to what to do if clients' parents could not be located or if the parents refused to consent to the use of restraint even though the developmental center considered the restraint essential for the welfare of the client or the safety of other clients and staff. The executive

director of Lanterman Developmental Center explained the dilemma in a memorandum to the deputy director of the Developmental Centers Division of the Department of Developmental Services. In the memorandum, he stated that, when developmental center staff were unable to secure consent from clients' parents or guardians for the use of a medication for behavior management, staff were left with the choice of discontinuing medication that staff considered to be in the best interests of the client or continuing to administer the medication without proper consent.

Lack of Committee Approval: In addition to ensuring that staff obtain proper consents before using HRIs, the Behavior Management Committee is responsible for ensuring that clients are not subject to unnecessary or excessive restraint. To do this, the committee must review and approve behavior management plans, which include the use of HRIs. Further, to prevent a violation of clients' rights, the Human Rights Committee is required to review behavior management plans and deny approval for any plan to apply unnecessary or excessive restraint.

However, during our review, we found 15 cases where staff at six of the seven developmental centers had applied programmed HRIs to clients at least once between March 1989 and September 1990 without the approval of either the Behavior Management Committee or the Human Rights Committee. In 7 of the 15 cases, the centers did not obtain the approval of one of the committees before applying restraint. In the remaining 8 cases, the centers continued to apply restraint even though the approval of one or both of the committees had expired.

For example, at Lanterman Developmental Center, we reviewed the clinical records for 21 clients, 10 of whom were listed by the developmental center as being approved for HRIs. We found that staff at the developmental center applied restraint to 6 of the 10 clients without current approval of either the Behavior Management Committee or the Human Rights Committee. In

one case, between April 30, 1990, and September 17, 1990, staff placed a client in a helmet numerous times and gave the client two different drugs daily to manage her behavior although the approval from the Behavior Management Committee for these restraints had expired on April 30, 1990, and the approval from the Human Rights Committee had expired on May 9, 1990.

According to the executive directors at five of the six developmental centers where we found staff applying restraint that was not currently approved by the committees, one reason for unapproved restraint may be that direct care staff did not know what types of restraint were currently approved for the clients involved. Although, in several of these cases, the committee approvals had expired, other cases involved newly admitted clients. Staff at two developmental centers applied restraints to these clients for up to three months without approvals from the Behavior Management Committee or the Human Rights Committee. These developmental centers do not have procedures to obtain interim approvals from one or both of the committees for the use of restraint while the developmental centers develop behavior management plans for newly admitted clients.

Effects of Not Obtaining Consent or Approval

By not obtaining the consent of the clients or the clients' parents or guardians and the approval of the Behavior Management Committee and the Human Rights Committee before using HRIs, the developmental centers are not complying with state laws and regulations as well as their own policies. Moreover, since the parents, the guardians, the Behavior Management Committee, and the Human Rights Committee are principal guarantors of clients' rights to be free from unnecessary restraint, the developmental centers' failure to always involve these individuals and committees in the behavior management of clients places the clients' rights in jeopardy.

Developmental Centers Do Not Always Adhere to Requirements for Applying, Monitoring, and Documenting the Use of Restraint on Clients

During our review, we found that staff at three developmental centers did not always properly document the use of restraint or whether they had performed the required periodic assessments of the condition of clients in restraint. Further, staff at two developmental centers applied restraints to some clients for longer periods than allowed by state and federal regulations. When staff keep clients in restraint longer than regulations allow or fail to periodically assess the condition of clients in restraint, staff may be abusing the clients' right to be free from harm. This right includes the right to be free from excessive or unnecessary restraint.

Background

In fiscal year 1989-90, according to the department, the developmental centers obtained approximately 48.7 percent of their funding in federal payments from the Medicare and Medicaid system. Title 42, Sections 442.254 and 483.450 of the Code of Federal Regulations requires that, as a condition for participation in the Medicare and Medicaid system, facilities must comply with certain limitations on, and requirements for, the application of restraint on clients. For example, staff at developmental centers are required to assess and record, at least every 30 minutes, the condition of clients who are in physical restraint. In addition, the federal regulations state that clients can be kept in locked time out for no longer than 60 minutes at a time. Locked time out consists of staff keeping a client in a room while holding the door to the room closed.

State regulations also contain requirements related to the application and documentation of restraint. Specifically, Title 22, Section 76329 of the California Code of Regulations requires staff to perform periodic assessments of clients in physical restraint every 30 minutes. In addition, the section requires staff to record each use of physical restraint.

Each of the developmental centers has developed policies that contain provisions similar to those in state and federal regulations although, in some cases, the developmental centers' provisions are more restrictive. For example, Camarillo Developmental Center requires staff to assess and record the condition of clients in physical restraint every 15 minutes instead of the 30 minutes specified in the state and federal regulations. In addition, all seven developmental centers have policies requiring staff to document how long clients are kept in physical restraint.

Further, two of the developmental centers limit their use of unlocked time out to 30 minutes. Unlocked time out is less restrictive to the client than locked time out. Unlocked time out is initiated by a staff member who places a client in a room that the client may leave at will. These developmental centers consider unlocked time out to be an HRI.

Failure To Document Use of Restraint and Assess Condition of Clients Under Restraint

During our review, we found that staff at three developmental centers failed to properly document the use of physical restraint on six of the clients in our sample who were listed by the centers as approved by Behavior Management Committees for the use of physical restraint. In these cases, staff failed to record the length of time the client was in restraint or document an assessment of the condition of the client at least every 30 minutes. For example, staff at Camarillo Developmental Center placed a client in a helmet and posey mittens five times between August 14, 1989, and April 6, 1990, without recording either how long the client was kept in the restraint or the assessment of the client's condition at least every 30 minutes. Posey mittens restrict the movement of a client's fingers, and Camarillo Developmental Center considers them to be an HRI.

In response to our concerns, the executive directors of two developmental centers where staff failed to document the required assessments stated that they believed that staff had actually performed the assessments but had either failed to document their work or had misfiled the forms. During our visits to residential units to observe how staff handled clients in physical restraint, we noted that staff are often kept very busy giving care to clients who are mobile and active. At these times, it would curtail the ability of staff to provide care for their clients if they stopped to make detailed notes on the use of restraint.

When staff periodically assess the condition of clients in physical restraint, they determine if the clients are properly positioned and ensure that the restraints are not limiting the clients' circulation or damaging the clients' skin. If these assessments are not performed, the clients safety may be in jeopardy. Further, the management at each developmental center reviews the documentation of the use of physical restraint to ensure that staff do not keep clients in restraint longer than allowed and that staff protect clients' safety by performing periodic assessments. If staff do not properly document the use of restraint and their performance of periodic assessments, management is limited in its ability to protect the rights of clients. Finally, if periodic assessments are not made and documented, the federal government may decertify the facility for participation in the Medicare and Medicaid system.

Restraint Applied for Longer Periods Than Policy Allows

At Fairview and Stockton developmental centers, we found documents, for six clients in our sample, indicating that staff applied locked time out or unlocked time out for periods longer than the maximum time allowed by the developmental centers' policies. Although both centers limited the length of time that staff could apply locked and unlocked time out, both centers also allowed the staff person applying the restraint to exceed the time limits if that person did not think that the client's behavior was

sufficiently in control to warrant release. None of the other developmental centers allow staff this discretion. Since our review, the executive director at one of the two developmental centers, Stockton, stated that he has revised his policy and presently does not allow direct care staff to exercise the discretion to exceed policy time limits on the use of locked time out.

The time limitations on the application of physical restraint specified in the policies of the developmental centers represent the opinion of center professionals as to the reasonable demarcation between necessary and unnecessary restraint. For example, the executive directors at two developmental centers stated that, if a given restraint technique has not been effective within the policy time limit, further application of that technique will probably not be effective and a different approach should be considered. Further, the executive directors at three developmental centers stated that, when policy time limits have expired, direct care staff are expected to obtain assistance from other professionals because the client's behavior problem may require greater expertise than direct care staff may have. Therefore, developmental centers that allow individual direct care staff unlimited discretion in how long they can apply restraint cannot ensure that staff are always applying the least amount of restraint necessary.

Further, if developmental centers keep clients in locked time out for more than 60 minutes, the federal government may decertify the developmental center for participation in the Medicare and Medicaid system. Our review of 12 client records at Fairview and Stockton Developmental Centers, the two centers that allowed staff the discretion to extend the length of locked time out, indicated that staff kept five clients in locked time out at least once for more than 60 minutes.

Conclusion

Staff at the developmental centers are not always protecting their clients' right to be free from unnecessary restraint although this right is provided to the developmentally disabled in state laws and regulations. Further, the developmental centers are not always complying with their own policies meant to protect clients' rights. Specifically, staff at developmental centers are sometimes applying restraint without the consent of clients or clients' parents or guardians or the approval of the committees responsible for protecting the rights of clients. In addition, staff at the developmental centers are not always properly documenting the use of restraint and may not always be ensuring that restraint is safely applied. Finally, staff at some developmental centers are keeping clients in restraint longer than allowed by federal regulation.

Recommendations

To improve its ability to protect the rights of clients under age 18 residing at the developmental centers, the Department of Developmental Services should take the following actions:

- Ensure that staff obtain proper consent or approval before applying highly restrictive interventions;
- Establish a policy specifying what form of communication must be used and how that communication should be documented when developmental center staff contact clients or the clients' parents or guardians for consent before using HRIs on clients;
- Establish a policy clearly stating the steps developmental centers must take in cases when staff believe HRIs are in the best interests of the client or necessary for the protection of others, but the client or the client's parents or guardians either refuse to provide consent or cannot be located;

- Ensure that the Behavior Management Committee and Human Rights Committee at each developmental center do not approve plans for the use of HRIs unless legally adequate consent has been obtained;

- Ensure that all developmental centers have administrative systems that will provide the staff who give direct care to clients timely information regarding which HRIs have been approved by the Behavior Management Committee and the Human Rights Committee for each client;

- Ensure that each developmental center develops and uses a procedure requiring the Behavior Management Committee and the Human Rights Committee to promptly review and approve or disapprove the continuation of the HRIs that were used on clients before admission to the developmental center;

- Require each developmental center, with the participation of direct care staff, to develop and use a system that does not interfere with the ability of staff to provide care to clients but enables staff to record the use of physical restraint on clients and the periodic assessment of the condition of clients in physical restraint; and

- Eliminate the authority of direct care staff at any developmental center to exceed regulatory time limits for the application of physical restraints on clients.

Chapter 2 Developmental Centers Are Meeting Most Staffing Standards

Chapter Summary

When allocating staff to care for developmentally disabled clients, the Department of Developmental Services (department) and the developmental centers must comply with legally established federal and state staffing standards. In addition, the department has established staffing guidelines based on client needs that the department assesses using the Client Development Evaluation Report (CDER). The developmental centers are generally meeting both the federal and state staffing standards we tested; however, none of the developmental centers are meeting the department's CDER staffing guidelines. Specifically, five of the seven developmental centers met both the federal and state staffing standards during the periods we reviewed. The two remaining developmental centers that did not always meet the standards were below the legally required staffing minimums for only a few days during our review period. In contrast, none of the developmental centers met the CDER staffing guidelines set by the department. The staffing levels at the seven developmental centers ranged from 6.9 percent to 20.9 percent below the CDER guidelines.

In addition, supervisors of direct care staff at the developmental centers stated that direct care staff are sometimes diverted to perform duties, such as laundry and housekeeping, that are not directly related to client care. Although most of the staff diversions occurred for only a portion of a shift, some direct care staff claimed that diversions had occurred for a full shift.

When staffing levels fall below the legally established minimums or the CDER guidelines or when direct care staff are diverted to perform duties not related to client care, the programs may not have sufficient staff to provide the level of direct care necessary to meet the needs of the clients.

Developmental Centers Are Generally Meeting Federal and State Direct Care Staffing Standards

Staff who work in the residential units of the developmental centers provide daily direct care, treatment, and scheduled activities for developmental center clients. Both Title 42 of the Code of Federal Regulations and Title 22 of the California Code of Regulations have established regulations concerning the minimum number of staff needed to deliver such services to provide adequate care to clients in residential units. Moreover, the developmental centers must meet the federal standards to receive federal funds and must meet the state standards to be licensed by the Department of Health Services to operate.

General Compliance With the Federal Staffing Standard

Title 42, Section 483.430 of the Code of Federal Regulations, requires a direct care staff-to-client ratio of one staff member for every 3.2 clients. This is a minimum staffing level, calculated over all shifts in a 24-hour period for each intermediate care residential unit serving children under the age of 12, clients who are severely and profoundly retarded, clients with severe physical disabilities, clients who are aggressive, assaultive, or security risks, or clients who manifest severely hyperactive or psychotic-like behavior. Severely and profoundly retarded clients are those clients who perform at the lowest levels on standardized intelligence tests. Most of the clients under age 18 residing in the developmental centers are severely or profoundly retarded. Direct care staff are those staff in the residential living units who directly manage and supervise clients in accordance with their Individual Program Plans.

To determine if the developmental centers were meeting the federal staffing standard, we calculated the staff-to-client ratio for one intermediate care unit at each center during fiscal year 1989-90 and compared the results with the federal staffing standard. To calculate staff-to-client ratios, we relied on the attendance records for direct care staff and the daily records of the client population in each unit.

At Agnews, Lanterman, and Sonoma Developmental Centers, we calculated staff-to-client ratios for every day in each of four months. All three of these developmental centers met the federal staffing standard. At the remaining four developmental centers--Camarillo, Fairview, Porterville, and Stockton--we reviewed the attendance records for one week in each of the four months. Our analyses for these developmental centers indicated that two of the four centers failed to meet the federal staffing standard on a few days of the review period. Specifically, Porterville Developmental Center did not meet the federal staffing standard for 2 of the 28 days we tested, and Fairview Developmental Center did not meet the standard for one of the 28 days we tested. (See Table 3 on page 31 of this report for a summary of the department's compliance with legal staffing standards.)

General Compliance With State Staffing Standards

Title 22, Section 76355 of the California Code of Regulations (CCR), requires a minimum average of 2.7 nursing hours per client per day for clients residing in intermediate care facilities for the developmentally disabled. Section 1276.5 of the Health and Safety Code states that nursing hours include work performed by aides, nursing assistants, registered nurses, licensed vocational nurses, and psychiatric technicians.

In addition, Title 22, Section 76337 of the CCR, requires a minimum of one direct care staff member for every 20 clients between the hours of 10:00 p.m. and 5:00 a.m. for intermediate care units serving developmentally disabled clients.

To determine the developmental centers' compliance with the two state staffing standards, we used the same attendance records that we used to test the developmental centers' compliance with the federal staffing standard. All three of the developmental centers for which we tested every day in each of four months met both of the state staffing standards. However, only two of the remaining four developmental centers, for which we tested one week in each of the same four months, met both state standards.

For 5 of the 28 days we tested, both Fairview Developmental Center and Porterville Developmental Center did not meet the state standard of providing an average of 2.7 nursing hours per client per day. In addition, these same two developmental centers did not always meet the state standard that requires one direct care staff person for every 20 clients between the hours of 10:00 p.m. and 5:00 a.m. Specifically, Fairview Developmental Center did not meet the standard for 6 of the days in the review period, and Porterville did not meet the standard for 2 days in the review period. (See Table 3 on page 31 of this report for a summary of the department's compliance with legal staffing standards.)

Reasons for Occasional Noncompliance With Federal and State Standards

Fairview and Porterville Developmental Centers failed on some occasions to meet the federal and state staffing standards because both centers established local minimum staffing guidelines that were too low to enable the centers to comply with all the legal staffing standards for intermediate care residential units. The local minimum guidelines represent the minimum staffing levels that units must maintain at all times. Occasionally, the units maintain these minimum levels by borrowing staff from other units that are staffed above minimum. If this is not possible, the units use voluntary or mandatory overtime to cover the absence of scheduled staff.

The centers established their local minimum guidelines based upon an agreement that they believed existed between the department and the Department of Health Services (DHS). The DHS is responsible for monitoring the developmental centers' compliance with the federal and state staffing standards. According to the deputy director of the department's Developmental Centers Division, the agreement specified staff-to-client ratios that were acceptable to the DHS. However, our analysis of these staffing ratios indicates that the ratios were not always sufficient to meet all of the staffing standards required by law. Furthermore, according to the deputy director of the DHS' Licensing and Certification division, such an agreement was not in effect in fiscal year 1989-90, the period of our audit testing.

Although the two developmental centers established local minimum staffing guidelines that were too low to meet all the legal standards, the centers were still able to meet the legal standards for most of the days we reviewed. In spite of the more lenient staffing standards that the developmental centers thought applied to them, the centers still staffed their units above the local minimum staffing levels most of the time. Table 3 shows the number of days the developmental centers failed to comply with legal staffing standards.

Table 3 Number of Days the Developmental Centers Failed To Comply With Legal Staffing Standards

		Number of Days Out of Compliance		
Developmental Center	Number of Days Tested	Federal Standard	State Standard of 2.7 Hours of Nursing Care Per Client Per Day	State Standard of Staff: Client Ratio of 1:20 on Night Shift
Agnews	122	0	0	0
Camarillo	28	0	0	0
Fairview	28	1	5	6
Lanterman	122	0	0	0
Porterville	28	2	5	2
Sonoma	122	0	0	0
Stockton	28	0	0	0

In addition to relying on inadequate local minimum staffing guidelines, Porterville Developmental Center's system for tracking the movement of staff among various residential units to cover staff absences was not sufficient to document staffing levels in the units. The executive director of Porterville Developmental Center stated that the attendance records for the unit do not always show all staff who worked in the unit on any given shift because the attendance records do not include those staff persons who were temporarily reassigned from their regular unit to work in another unit to cover a staffing shortage due to illness, vacation, or other absence. In an attempt to document all staff who were temporarily reassigned to the unit we audited, the nursing coordinator reviewed additional records from other units within the program. However, he was still unable to provide us with sufficient documentation to demonstrate that the unit had met staffing minimums.

Developmental Centers Are Not Meeting the Department's Staffing Guidelines

The department uses information it obtains from the Client Development Evaluation Report (CDER) to develop a staffing allocation that is based upon the needs of the clients in each of the developmental centers. The CDER is a client needs assessment tool that enables the department to place each client into one of nine programs based on the individual client's needs. A program is a training model for clients with similar developmental needs. The department prepares a CDER for all clients recently admitted to a developmental center and updates the assessment annually for those clients already residing in the developmental centers.

The department has determined the amount and types of treatment and activity time needed by clients in each program and has converted these needs into staffing indices. The staffing indices specify the number of professional and nursing staff needed per client in each type of program. For example, the department has determined that clients whose program needs focus on continuing medical care require .962 nursing staff per client while clients in a program that focuses on physical and social development need only .717 nursing staff per client. The department then determines total professional and nursing staff needs by multiplying the staffing index for each program by the

number of clients in the program. The resulting number becomes the CDER staffing guideline for the program. For example, a program housing ten clients who require continuing medical care would need 9.62 nursing staff while a program housing ten clients with a primary need for physical and social development would need 7.17 nursing staff.

To determine whether the developmental centers' staffing levels complied with the CDER guidelines, we reviewed the centers' reports of the number of direct care nursing staff working at each of the developmental centers during fiscal year 1989-90. Our review disclosed that none of the developmental centers met the CDER staffing guidelines for direct care staff. The annual average staffing levels ranged from 6.9 percent below the CDER guidelines to 20.9 percent below the CDER guidelines during fiscal year 1989-90. Table 4 shows the centers' noncompliance with the department's CDER guidelines.

Table 4 Summary of the Developmental Centers' Noncompliance With the Department of Developmental Services' Need-Based Staffing Guidelines Fiscal Year 1989-90

Developmental Center	Percentage Below Department Guidelines
Agnews	9.4%
Camarillo	20.9
Fairview	10.5
Lanterman	9.1
Porterville	8.6
Sonoma	6.9
Stockton	7.9

We found that the developmental centers did not meet the CDER staffing guidelines, in part, because of the State's process for determining departments' staffing budgets. Once the department determines the staffing allocation for each developmental center based on the CDERs, it submits a budget request for staffing to the Department of Finance (DOF). The DOF reduces the staffing level determined by the CDER guidelines to account for salary savings. Salary savings are anticipated savings that result from the inability to keep all authorized positions filled for the entire year because of leaves of absence, vacancies, downward reclassifications, and staff turnover. These anticipated savings are subtracted from a department's budget authorization. All state departments' budgets are subject to reductions for salary savings although the amount of the reduction varies. In fiscal year 1989-90, the developmental centers' budget for direct care staff included a reduction of 6.41 percent for salary savings. In other words, the department received only enough funds in its staffing budget to provide direct care staff at the developmental centers at least 6.41 percent below the CDER staffing guidelines.

According to the executive directors of several of the developmental centers, some of the developmental centers have additional problems meeting the CDER staffing guidelines because the centers have a difficult time recruiting and hiring nursing staff because of their location in tight labor markets and high-cost living areas.

Finally, according to the department, the developmental centers failed to meet the CDER staffing guidelines because they hold vacant some direct care staff positions that were funded in the department's budget. The centers then use some of the money that was budgeted for these direct care positions to fund other necessary staff positions that were not funded in the budget, such as assistant coordinators of nursing services. The centers have also accommodated former janitors and laundry workers, who lost their positions when the developmental centers began securing these services via contracts with outside agencies, by employing these workers in other positions that were not included

in the budget. The department stated that the centers also use some of the funds budgeted for direct care positions to cover operating expenses that exceed budgeted amounts because costs have increased faster than the department's budget. The department has the discretion, with Department of Finance approval, to redirect budgeted funds in this manner.

Effects of Failure To Meet Staffing Standards

When nursing staff levels fall below the legally established minimums or the CDER staffing guidelines, the programs may not have sufficient staff to properly supervise clients. For example, during a licensing survey of a developmental center on September 1, 1989, the Department of Health Services (DHS) observed seven clients in a room with no staff member present. During a complaint inspection in August 1989, at a different developmental center, the DHS noted five clients in a room with only one staff person present even though two of the clients had specified needs for a staff-to-client ratio of 1:1. Thus, there should have been at least three staff present, one for each of the two clients with special needs and an additional staff person to care for the remaining three clients. On this occasion, a sixth client entered the room and struck another client, but no staff intervention occurred.

Furthermore, if the developmental centers do not comply with the staffing standards required by law, they also face potential loss of both their licenses to operate and also their certification to receive federal funding.

The Department Is Taking Steps To Improve the Level of Direct Care Staffing

According to the executive directors at some of the developmental centers, the centers actively engage in recruiting activities to reduce the number of vacant direct care staff positions. These activities include maintaining contact with psychiatric technician and nurse training programs in the community and attending job fairs. In addition, officials at two of the developmental centers stated that they sponsor psychiatric technician training programs in which the developmental center pays psychiatric technician

students a full-time salary while the students work part-time at the developmental center and attend school part-time. Further, Camarillo Developmental Center operates its own psychiatric technician training program at the center.

In addition to efforts to recruit more staff, the department is in the process of revising the CDER staffing guidelines to reflect changes in treatment philosophy and the changing needs of clients currently residing in the developmental centers. According to the department's work plan for revising the staffing standards, one of the objectives the department seeks to accomplish through the revision is to create new staffing guidelines that will not be negatively affected by salary savings requirements or the failure to fund necessary operating expenses and equipment costs.

Direct Care Staff Are Not Always Performing Duties Related to Client Care

Title 22, Section 76337 of the California Code of Regulations, states that direct care staff should not be assigned to housekeeping, administrative and financial recordkeeping, or other nonclient care activities. In addition, Title 42, Section 483.430 of the Code of Federal Regulations, states that the centers must provide sufficient support staff so that direct care staff are not required to perform support services to the extent that these duties interfere with their primary direct care to clients. Direct care staff are those staff in the residential living units who directly manage and supervise clients in accordance with the clients' Individual Program Plans. Direct care staff may include nurses and psychiatric technicians whereas support staff may include janitors, food service workers, and hospital workers. Hospital workers perform a wide range of housekeeping tasks such as laundry and are considered support staff when they are not involved in client care.

According to employee duty statements, direct care staff such as psychiatric technicians and psychiatric technician trainees are responsible for maintaining a clean, safe, and homelike environment for the residents at the developmental centers. To meet this responsibility, direct care staff must perform some tasks that do not directly involve client care. For instance, the department

stated that if a client creates a mess, spills something, or requires a change of clothes because of incontinence, immediate intervention by direct care staff may be necessary to prevent a safety hazard or health risk. However, such activities are not considered a diversion of direct care staff into nonclient care duties.

We distributed surveys to shift supervisors for all the units with clients under age 18 at the seven developmental centers. Of the 228 surveys we distributed, we received responses from 178 (78 percent) of the shift supervisors. To obtain additional information, we conducted telephone interviews with some survey respondents. Fifteen (8 percent) of the respondents stated that direct care staff had been diverted for a full eight-hour shift. Of these respondents, 2 stated that when staff were diverted for a full shift, they were not counted in the minimum number of direct care staff necessary to meet legal staffing standards for the unit. However, the remaining 13 respondents stated that even when staff were diverted for a full shift, they were counted toward the legal minimum number of direct care staff required. If staff are performing nonclient care duties but are counted toward the minimum number of required direct care staff, clients may not receive the necessary level of direct care and supervision required by law.

Another 145 (81 percent) of the survey respondents reported that direct care staff had been diverted to perform nonclient care duties for a portion of a shift. Several respondents stated that staff were diverted during a portion of their shift to perform nonclient care duties that included laundry, bed making, shopping, paperwork, housekeeping, maintenance, and food services. For example, 128 (88 percent) of these respondents listed laundry as one of the duties that direct care staff were diverted to perform. Furthermore, one respondent stated that many times direct care staff perform duties that are not related to client care even though these duties could be performed by other employees such as hospital workers.

The Department of Health Services (DHS) has also identified instances where direct care staff were diverted to perform nonclient care duties. For example, in January 1990, the DHS Licensing

and Certification division issued a deficiency report to Lanterman Developmental Center because direct care staff were assigned to laundry duties and, therefore, were not available to provide client care.

When the developmental centers divert direct care staff to perform nonclient care duties, clients may not receive direct staff attention that is necessary to implement the clients' individual program plans or to ensure the safety of the clients. In fact, one survey respondent claimed that each time staff are diverted to perform nonclient care duties, clients' needs have to wait. Moreover, the developmental centers are not using resources efficiently when direct care staff perform housekeeping and maintenance duties that could be assigned to other employees such as hospital workers. Finally, the developmental centers cannot ensure that they are meeting the minimum staffing levels required by law when they count the hours direct care staff spend on nonclient care duties toward direct care staffing requirements.

Some survey respondents stated that staff are diverted to perform nonclient care duties because the shift does not have a regularly assigned hospital worker or maintenance staff person. Other respondents stated that even though a hospital worker is assigned to the shift, diversion of direct care staff is necessary when the hospital worker is scheduled for a day off or is absent for other reasons.

Conclusion

The developmental centers are usually meeting both the federal and state staffing standards we tested; however, none of the developmental centers are meeting the department's staffing guidelines that are based on client needs. We found that the developmental centers are unable to meet the guidelines because of required salary savings. Moreover, according to developmental center and department officials, the centers are also unable to meet the guidelines because of recruiting difficulties and the diverting of funds budgeted for direct care staff to fund other unbudgeted positions and to cover operating expenses that exceed

budgeted amounts. When staffing levels fall below the legally established minimums or the department's guidelines, the programs may not have sufficient staff to provide the level of direct client care necessary to meet the needs of the clients.

In addition, direct care staff at the developmental centers stated that staff are diverted to perform duties that are not related to direct client care, such as laundry and housekeeping. In most cases, staff are diverted for only a portion of their shift, but in some cases, staff have been diverted for a full eight-hour shift. When staff are diverted to perform duties not related to direct client care, clients may not receive the level of care and training necessary to meet their needs.

Recommendations

To ensure that the developmental centers are staffing residential units in accordance with legal standards and the guidelines of the Department of Developmental Services, the department should take the following actions:

- Revise local minimum staffing guidelines to ensure that they comply with all legal staffing requirements;
- Ensure that Porterville Developmental Center develops and implements a system to more effectively track the temporary reassignment of staff necessary to maintain minimum staffing when regularly scheduled staff are absent; and
- Continue recruiting efforts to fill all direct care staff positions authorized by its budget.

To prevent the diversion of direct care staff to perform nonclient care duties, the department should take the following actions:

- Follow up on our survey results to determine the specific reasons that direct care staff are diverted to nonclient care duties; and

- Take appropriate action to minimize unnecessary direct care staff diversion, such as requiring the developmental centers to provide support staff on each shift and ensuring sufficient coverage when support staff are scheduled off or are absent because of illness.

Chapter 3 Developmental Centers Are Not Always Documenting the Implementation of Their Clients' Program Plans

Chapter Summary

The staff at developmental centers are not always documenting their clients' progress toward reaching the objectives identified in their Individual Program Plans (IPP). Similarly, staff at the developmental centers are not always documenting clients' progress toward meeting goals outlined in the clients' Individualized Education Programs (IEP). We reviewed 107 client records at the seven developmental centers and found 17 instances for 15 clients where staff had not properly documented the clients' progress toward meeting the objectives outlined in the clients' IPPs. For example, in 11 of the 17 instances, progress documents in the clients' records were not current. In addition, we reviewed IEPs for 63 clients and found 8 instances for 7 clients in which staff at the developmental centers had not properly recorded the clients' progress toward meeting goals listed in the clients' IEPs.

Without such documentation, the staff at the developmental centers cannot ensure that the interdisciplinary teams will have sufficient information to assess the effectiveness of the clients' current programs or to make decisions about modifying the clients' programs. Furthermore, by not properly documenting the progress of clients in their IEPs, the developmental centers cannot ensure that clients are receiving educational services that are most appropriate for their needs.

Developmental Centers Are Not Always Documenting the Implementation of Their Clients' Individual Program Plans

Each client residing in the developmental centers has an Individual Program Plan (IPP) that is reviewed and updated regularly. The IPP consists of a written plan of action and a specific set of behavioral objectives designed to improve a client's capabilities. The IPP also specifies the type and amount of services that a client needs to achieve the objectives in the plan. The Department of Developmental Services (department) requires interdisciplinary teams to periodically review and update each client's IPP. Members of the team include the client, the client's family when appropriate, persons who work directly with the client, the client's physician, the registered nurse in charge of nursing services, the program director or qualified mental retardation professional, and other persons whose participation is relevant to identifying the needs of the client and to devising ways to meet those needs. As part of the review, the team uses evaluations, assessments, and previously implemented training programs and health care plans to determine whether the client's IPP is appropriate.

To review the progress that clients have made in meeting the objectives spelled out in their IPPs, as required by the department, the interdisciplinary team relies, in part, on periodic progress reports prepared by the developmental center staff who care for the clients. We reviewed clients' progress reports to determine if the clients' progress toward reaching their IPP objectives is documented at least monthly as required by the department. In addition, we reviewed the clients' data collection sheets maintained at the residential units to ensure that the data were being collected in accordance with the department's Clinical Record Documentation Manual (manual). The manual specifies procedures that the developmental center staff are required to follow in collecting data on clients' progress. In addition, the manual describes the type of data, how often the data should be collected, and how the data should be recorded.

In our review of 107 client records at the seven developmental centers, we found 17 instances for 15 clients where staff had not properly documented the clients' progress toward meeting the objectives outlined in the clients' IPPs. In 11 of the 17 instances, progress documents in the clients' records were not current. For

example, staff at Agnews Developmental Center had not updated one client's monthly progress reports for two months and had not updated two other clients' monthly progress reports for one month. In addition, staff at Agnews had not updated unit data collection sheets for two months for one client and for at least one month for another client. Moreover, in 4 of the remaining 6 instances, we could not find any data collection sheets to show that staff properly implemented the clients' objectives as written in their IPPs. For example, at Porterville Developmental Center, we identified two cases where the clients' objectives were listed in their IPPs; however, there were no data collection sheets in the clients' records to show that staff had properly implemented the clients' objectives.

Finally, for the two remaining instances, staff had not recorded the clients' progress in the data collection sheets in the frequency specified in the clients' IPPs. In one case, the client's IPP required that progress toward two of the client's objectives be recorded daily; however, staff only recorded the client's progress for five days of the entire month. In the other case, the client's IPP required that progress toward one of her objectives be recorded each week of the month, yet it was only recorded for one of the four weeks.

Similarly, survey teams from the Licensing and Certification division of the Department of Health Services found at least 15 instances at 2 developmental centers where staff at the developmental centers had not always documented clients' progress toward meeting objectives outlined in the clients' IPPs. For example, in November 1989, a survey team found that staff at Stockton Developmental Center had not documented one client's objectives in the monthly progress reports for nearly four months. In addition, the survey team reported that another client's IPP objective had not been updated for two months.

When staff do not always document a client's progress toward reaching objectives listed in the client's IPP, the developmental centers cannot ensure that the interdisciplinary team will have sufficient information to assess the effectiveness of the client's

current program. As a result, the interdisciplinary team may not respond to the changing needs of each client and may be hindered when making decisions about updating the client's program.

Federal regulations require a monitoring system whereby a member of the interdisciplinary team is designated as the client's individual program coordinator. The coordinator is responsible for monitoring and coordinating all the activities necessary to implement the client's IPP. In addition, the coordinator is responsible for ensuring that each client's progress is documented and for initiating periodic reviews of each client's IPP to identify necessary modifications or adjustments.

We surveyed four individual program coordinators who were responsible for four of the clients for whom we found documentation problems at one developmental center. We asked these coordinators why they had not identified the documentation errors we had found during our review. Three of the four coordinators stated that they had many other responsibilities at the developmental center, and therefore, they could not always review their clients' records once a month as required. The remaining individual program coordinator we surveyed stated that as a full-time coordinator he has a caseload of 31 clients. He further stated that, when he reviews the records, he targets areas of concern that have been brought to his attention.

We also asked these coordinators to explain why staff at the developmental centers are not properly documenting clients' progress at the developmental centers. Two of the coordinators stated that the documentation problems occurred because staff at the developmental centers are overextended. As a result, staff must prioritize their responsibilities, and documenting clients' progress is considered a lower priority than providing direct care to the clients. In addition, one of the coordinators we surveyed stated in an interview that some of the documentation errors occur because new staff do not receive adequate training on how to properly collect and document data.

In its work plan to revise the developmental centers' staffing standards, the department reached similar conclusions. For example, the department stated that, because coordinator functions are performed by professional staff, time is taken away from the professional staff's regular duties. The department also stated that the current extensive documentation requirements were not anticipated in the present staffing standards and that the amount of time allocated for recordkeeping is not adequate.

Developmental Centers Are Not Always Documenting Clients' Progress Toward Accomplishing Objectives In Their Individualized Education Programs

Section 4501.5 of the Welfare and Institutions Code states that developmental centers must provide to individuals with exceptional needs residing in state developmental centers appropriate special education programs and related services. In addition, Section 56345 of the Education Code requires that the client's Individualized Education Program (IEP) include specific special educational, instruction and related services required by the pupil. The section also states that the criteria to evaluate the client's success and the schedules for determining whether short-term instructional objectives are being achieved should be included in the IEP.

Section 7800 of the department's Clinical Records Documentation Manual states that the IEP is a component of the IPP and specifically deals with special education and related services that are to be provided to any student who is 21 years of age or younger and who has not graduated from high school. The manual also states that since the IEP is a component of the IPP, the same requirements for documenting a client's progress toward meeting IPP objectives apply to a client meeting his or her IEP objectives. Therefore, staff at the developmental centers are required to document the client's progress toward reaching the objectives identified in the client's IEP.

To determine whether staff documented clients' progress toward reaching objectives listed in the clients' IEPs, we reviewed IEPs for 63 clients at three developmental centers: Agnews, Lanterman, and Sonoma. During our review, we found, in 8 instances, client records where staff at the developmental centers

had not always recorded the clients' progress toward reaching the objectives listed in the clients' IEPs. In five instances involving four clients, we found that the staff did not always record the clients' progress in the proper frequency. For example, the IEPs for two clients at Sonoma Developmental Center indicated that the clients' progress should be recorded in the data collection sheets once per week, yet the staff recorded the progress only once per month. In the remaining three instances, we found that, in two cases, the documentation was either incomplete or not current, and in the remaining instance, for one of the client's objectives, we could not find any documentation in the client's records to demonstrate that the instructor had ever implemented the objective.

The superintendent of public instruction is responsible for monitoring special education programs including those provided by the developmental centers. During the California Department of Education's (CDE) most recent compliance reviews conducted at six developmental centers, the CDE also identified documentation problems in the clients' IEPs. Specifically, the CDE identified two developmental centers where some of the clients' IEP data files were disorganized enough that CDE evaluators were not always able to locate or identify information needed to complete the compliance review. Moreover, at Stockton Developmental Center, the CDE found that two client records did not contain the clients' current IEPs.

When staff do not always document clients' progress toward reaching objectives listed in the clients' IEPs, the developmental centers cannot ensure that interdisciplinary teams will have sufficient information to evaluate the clients' success, and therefore, the teams may be hindered when making decisions about modifying the clients' programs.

One special education instructor we interviewed stated that the required recording frequencies specified in the clients' IEPs were inappropriate. He stated that frequent documentation of the clients' progress was not justified because the clients' progress was so minimal. Another special education instructor stated that

she has many responsibilities besides documenting the progress of each of her students. In this teacher's opinion, the developmental center has a staffing problem that has led to more students in her class than she can effectively teach.

Conclusion

Staff at the developmental centers are not always documenting clients' progress toward accomplishing objectives specified in the clients' Individual Program Plans. Similarly, staff at the developmental centers are not always documenting the clients' progress toward meeting goals outlined in the clients' Individualized Education Programs. As a result, the developmental centers cannot ensure that the interdisciplinary teams will have sufficient information to evaluate the clients' success, and therefore, the teams may be hindered when making decisions about modifying the clients' programs.

Recommendations

To ensure that clients' records accurately reflect the clients' actual progress, the Department of Developmental Services should take the following actions:

- Ensure that staff at the developmental centers are recording the clients' progress toward reaching objectives specified in the clients' Individual Program Plans, and ensure that staff are recording the clients' progress toward accomplishing objectives identified in the clients' Individualized Education Programs; and

- Reevaluate the work load of the individual program coordinators to ensure that the coordinators have enough time to periodically review client records and data collection sheets in the clients' residential units.

Chapter 4 Developmental Centers Are Following Procedures for Reporting Special Incidents

Chapter Summary

Staff at the developmental centers are following the proper procedures for reporting special incidents to management within the centers. Specifically, we reviewed 142 special incident reports at the seven developmental centers and found that staff followed proper procedures for reporting all 142 incidents.

Moreover, we found that the number of special incidents at the seven developmental centers involving clients under age 18 has fluctuated during the past four fiscal years. For example, the number of special incidents decreased from 632 in fiscal year 1987-88 to 608 in fiscal year 1988-89 and, then, increased to 641 in fiscal year 1989-90. However, we found that during the same period, the number of special incidents continually increased at two of the seven developmental centers, Agnews and Sonoma.

Background

A special incident is an occurrence that is either physically or psychologically harmful to a client or is inconsistent with a client's typical behavior or condition. In addition, a special incident may be an occurrence that adversely affects the operations of the developmental center; however, this type of incident may or may not be related to the clients served by the developmental center. The department categorizes several types of occurrences as special incidents, including the death of a client, injuries suffered by clients, aggressive acts by clients that are directed toward other clients or staff, fire, and property damage.

To ensure that immediate attention is given to any inappropriate activities by clients or employees at the developmental centers, the department established a policy requiring each developmental center to maintain a special incident reporting system. The system was developed to ensure that each incident is investigated, that corrective action is taken to prevent the possible recurrence of the same type of incident, and that information about incidents is communicated to all developmental centers to identify incidents that have occurred that may indicate the existence of systemwide problems.

Staff at each developmental center use a special incident report form to document special incidents that have occurred at the developmental centers. The form identifies the type of incident that occurred, the names of the persons who witnessed the incident, the names of the persons involved in the incident, and the condition of the clients involved in the incident. In addition, the form identifies both the corrective action taken to prevent the recurrence of this type of incident and the management officials at the developmental center who reviewed the special incident report.

Staff Are Following Procedures for Reporting Special Incidents to Management at the Developmental Centers

We reviewed each developmental center's policies and procedures for reporting special incidents and identified certain steps that are performed at all the developmental centers. Specifically, we determined that all seven developmental centers require the employee who witnessed the incident to complete a special incident report form describing the incident and the date, time, and location of the incident. In addition, the developmental centers require the staff to document the "care and treatment" provided to any clients who received treatment for an injury sustained during the incident. Finally, all the developmental centers require a management representative such as a program director to review the special incident report to ensure that the incident was handled properly and that corrective action had been or would be taken to prevent a future occurrence.

To determine whether staff at the developmental centers were following the procedures we identified for reporting incidents, we reviewed a sample of 142 special incident reports for incidents that involved a client under age 18 and that occurred between July 1, 1986, and June 30, 1990. Although a special incident report lists 28 categories of incidents, we limited our review to incidents from 15 of the 28 categories. All of the categories from which we selected our sample are directly related to the health and well-being of the clients. For example, we included categories such as death, injuries, sexual incidents, and alleged client abuse whereas we eliminated categories such as contraband, property damage, and theft.

During our review of the incident reports, we tested compliance with those procedures that all seven of the developmental centers require their staff to follow. First, we determined whether the incident report was completed and signed by the reporting witness. Next, for those clients who were injured, we determined whether the client received immediate medical attention. Finally, we determined whether the program director had been notified of the incident and had reviewed the incident report to ensure that it was complete. Our review disclosed that staff at the seven developmental centers properly followed these procedures for reporting all 142 special incidents to management within the developmental centers.

Trends in Reporting Special Incidents

To determine if there were any trends in the number of incidents involving clients under age 18, we reviewed special incident reports for fiscal year 1986-87 through fiscal year 1989-90. As we did when we reviewed the incidents to determine if staff were following proper procedures for reporting incidents, we limited our analysis of trends to those incidents from the 15 categories that deal directly with the health and well-being of the clients.

As Table 5 shows, the number of incidents that involved clients under age 18 continually increased during the four-year period at two of the seven developmental centers, Agnews and

Sonoma. Similarly, at Fairview Developmental Center, the number of incidents that involved clients under age 18 has continually increased since fiscal year 1987-88. Finally, at the remaining four developmental centers, the number of incidents fluctuated during the four years. At Agnews, the number of incidents more than doubled from 67 in fiscal year 1986-87 to 151 in fiscal year 1989-90. Similarly, at Fairview and Sonoma developmental centers, the number of incidents involving clients under age 18 increased at least 75 percent from fiscal year 1986-87 to fiscal year 1989-90.

Table 5 Number of Incidents Involving Clients Under Age 18 Reported by Seven Developmental Centers for Four Fiscal Years

Developmental Center	1986-87	1987-88	1988-89	1989-90	Percent Change 1986-87 Through 1987-88	Percent Change 1987-88 Through 1988-89	Percent Change 1988-89 Through 1989-90
Agnews	67	84	102	151	25.37%	21.43%	48.04%
Camarillo	97	151	96	86	55.67	(36.42)	(10.42)
Fairview	57	57	64	100	0.00	12.28	56.25
Lanterman	57	69	71	46	21.05	2.90	(35.21)
Porterville	15	20	16	17	33.33	(20.00)	6.25
Sonoma	84	133	138	149	58.33	3.76	7.97
Stockton	154	118	121	92	(23.38)	2.54	(23.97)
Total	531	632	608	641	19.02	(3.80)	5.43

As we discussed in the Introduction of this report, the population of clients under age 18 at the developmental centers has increased at a greater rate than the overall population at the centers. Using this information, we tried to determine if the increased number of incidents at Agnews, Fairview, and Sonoma was a result of the population increases. Table 6 below presents the population of clients under age 18 at the developmental centers for the four

fiscal years we reviewed. As the table shows, the number of clients under age 18 residing at the three developmental centers, Agnews, Fairview, and Sonoma, continually increased during the first three years of the four-year period. However, from fiscal year 1988-89 to fiscal year 1989-90, the population of clients under age 18 decreased at all three of the developmental centers. Moreover, we determined that the number of incidents reported by Agnews and Fairview increased more from fiscal year 1988-89 to fiscal year 1989-90 than any other time during the four-year period. For example, at Fairview, while the population of clients under age 18 decreased 39 percent from 144 in fiscal year 1988-89 to 88 in fiscal year 1989-90, the number of incidents increased 56 percent from 64 to 100.

Table 6 **Developmental Center Population of Clients Under Age 18 for Four Fiscal Years**

Developmental Center	1986-87	1987-88	1988-89	1989-90	Percent Change 1986-87 Through 1987-88	Percent Change 1987-88 Through 1988-89	Percent Change 1988-89 Through 1989-90
Agnews	98	106	111	97	8.16%	4.72%	(12.61)%
Camarillo	40	41	50	44	2.50	21.95	(12.00)
Fairview	44	91	144	88	106.82	58.24	(38.89)
Lanterman	100	114	136	118	14.00	19.30	(13.24)
Porterville	57	67	71	68	17.54	5.97	(4.23)
Sonoma	101	104	131	127	2.97	25.96	(3.05)
Stockton	45	35	43	20	(22.22)	22.86	(53.49)
Total	485	558	686	562	15.05	22.94	(18.08)

We cannot conclude from our analysis that the increased number of incidents is directly related to the increased population of clients under age 18; therefore, we asked the Department of Developmental Services (department) to comment on the trends we identified. According to the deputy director of the department's

Developmental Centers Division, the increased number of incidents may be the result of several factors. In recent years, there have been significant demographic changes in the population of children served. Specifically, more children are technologically dependent and a greater number have three or more medical problems while others display challenging maladaptive behaviors. Furthermore, these children are aggressive, and injuries often occur with this group of clientele.

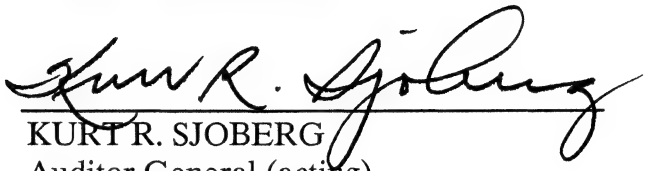
Conclusion

Staff at the developmental centers are following proper procedures for reporting special incidents to management within the developmental centers. Specifically, we found that staff followed proper procedures for reporting all 142 incidents we reviewed.

The total number of incidents at the seven developmental centers involving clients under age 18 has fluctuated during the past four fiscal years. However, at two developmental centers, Agnews and Sonoma, the number of incidents has continually increased during the same period.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



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Appendix A Additional Analyses Conducted at Some of the Developmental Centers

We conducted additional audit tests at some of the developmental centers to answer questions raised by interested parties including the parents of clients at Sonoma Developmental Center. We also conducted analyses in addition to those discussed in the chapters of this report. The results of these additional analyses are presented in this appendix.

Other Areas Related to Clients' Rights

We investigated two additional clients' rights issues not addressed in Chapter 1: whether children at Sonoma Developmental Center have access to recreational equipment and whether staff at Sonoma are inappropriately placing violent children in residences with passive children and placing small children with adults.

Recreation Equipment

Section 4502 of the Welfare and Institutions Code states that developmentally disabled persons have a right to physical exercise and recreational opportunities. However, allegations were made that children living in Sonoma Developmental Center did not have access to recreational equipment. According to management of the Department of Developmental Services, Sonoma Developmental Center had taken steps to obtain toys and recreational equipment. For example, management at the developmental center planned to purchase additional playground equipment for the Oaks unit, which is the residence at the center for children who have moderate or severe developmental levels

and severe behavior problems. During our audit, we confirmed that the center has spent at least $4,600 on recreational equipment for the Oaks unit since January 1990. The equipment included such items as playground equipment costing $2,700 and toy balls and stereo equipment.

Placement of Children in Residences

There were also allegations that Sonoma Developmental Center was placing violent and self-abusive children in the same residences with passive children, and large children were residing in units with small children. In a September 1989 report prepared by the Area IV Developmental Disabilities Board Ad Hoc Committee on Juvenile Developmental Center Admission, a group of parents of developmentally disabled children residing in the Oaks unit expressed a similar concern about the inappropriate mixing of children. Finally, in the report of its August 1989 survey to recertify Sonoma Developmental Center for participation in the Medi-Cal system, the Department of Health Services cited the center for housing clients of grossly different age groups and developmental levels together in violation of Title 42, Section 483.470 of the Code of Federal Regulations.

Section 4502 of the Welfare and Institutions Code states that clients have a right to be free from abuse; thus, developmental centers have a responsibility to protect clients from the aggressive acts of other clients. However, there have been a number of cases where clients under age 18 at Sonoma Developmental Center have been hurt by other clients residing in the same living units. All the clients who were injured resided with other clients who were known by developmental center staff to be aggressive. In addition, the injured clients in most of the cases we reviewed were injured by other clients who lived in the same units. Therefore, we examined the process by which staff at Sonoma Developmental Center make the decision about where a client should reside at the center.

We found that developmental center staff rely primarily on their professional judgement in deciding on the appropriate program and unit in which to place clients. As a result, we were unable to audit the propriety of staff decisions regarding the placement of clients into residential units. Nor could we determine whether the staff made placement decisions that contributed to the number of cases where clients were injured by other clients at Sonoma Developmental Center.

According to the executive director, Sonoma Developmental Center has a two-step process for determining which residential unit is most appropriate for a newly admitted client. First, the senior psychologist, the human rights advocate, and the admissions officer together decide which program is most appropriate; then, the program director, with advice from his or her staff, decides which residential unit within the program is best for the client. When making the placement decision, staff consider many factors, such as the client's medical condition, developmental level, any history of behavior problems, and age.

Programs at Sonoma Developmental Center are specialized to address different client needs. For example, Program Three, Continuing Medical Care and Physical Development, serves adult clients who are not ambulatory and have profound retardation and continuing acute or chronic medical problems and clients who are severely or profoundly developmentally disabled with multiple physical handicaps. This program has ten residential units, all of which are skilled nursing facilities. The program has a number of objectives including improvement of clients' medical health, stimulation of clients' perceptual abilities, and improvement of clients' mobility. Another example, Program Four, Behavior Intervention and Autism Specialized Services, provides care for clients of all ages and developmental levels who have behavior problems, but do not have medical problems that require continuous skilled nursing care. Other programs at Sonoma Developmental Center are specialized to address other client needs such as social development and sensory motor development.

Several different residential units within each program provide services to clients of different ages, developmental levels, and behavior levels. For example, Program Four has six residential units including Sequoia and Oaks. Sequoia serves autistic adults with severe developmental levels and severe behavior problems, and Oaks serves clients ranging from age 9 to age 20 who have moderate or severe developmental levels and severe behavior problems.

According to the executive director at Sonoma Developmental Center, if circumstances warrant, developmental center staff may move a client from one program or residential unit to another. In some cases, clients in one program are moved because they have developed sufficient skills to allow them to enter another program with a different objective. For example, clients in the program for sensory motor development may develop sufficient self-help and mobility skills to move to a program stressing social development. In other cases, staff may move clients to a safer residence after the clients have been injured by other clients. For example, after a client's parents and regional center complained, staff moved one client to another residential unit because the client had been repeatedly injured in the Oaks unit. However, the majority of the clients residing in the new residence were adults, and this client was under age 18. Therefore, according to the executive director, after staff had made the Oaks unit safer, staff returned the client to the Oaks unit where he could live with clients his own age.

In addition, regarding the Oaks unit, the executive director of the Sonoma Developmental Center stated that the developmental center has taken two actions. First, all of the clients under age 18 who have serious behavior problems including aggression but do not require skilled nursing care have been placed in one unit, Oaks. Second, the center has increased the staffing levels in the Oaks unit. During our testing of staffing levels, we confirmed that the Oaks unit was staffed at least 40 percent above the minimum number of persons needed to meet the legal requirements for staffing levels.

We also determined whether Sonoma Developmental Center was placing children in the same residences with adults. To do this, we reviewed the client populations of all residences at the center to identify instances where clients under age 13 were residing with clients over age 18. We found that six units had at least one client under 13 residing with clients over age 18. However, five of these residences were skilled nursing facilities that care for clients who are, according to the center's executive director, generally not physically able to harm others. In addition, the executive director stated that the clients' medical needs are usually the major factors in determining where these clients should reside at the developmental center.

The remaining unit with clients under age 13 residing with clients over age 18 was the Oaks unit. The center's executive director informed us that since August 1990, all of the clients residing in the Oaks unit were under age 18. We confirmed that, as of November 1990, all the clients residing in the Oaks unit were under age 18.

Other Areas Related to Direct Care Staffing

We conducted two additional analyses related to direct care staffing: whether direct care staff receive training classes that address the needs of children and whether the developmental centers are providing one-to-one care to clients who have a documented need for such care.

Most Developmental Centers Are Offering Staff Training Classes That Deal Specifically With the Needs of Children

To determine whether the developmental centers are providing staff training classes that address the needs of children, we interviewed the training coordinator at each of the seven developmental centers. In addition, we obtained documentation such as training calendars and course outlines to document the types of classes the developmental centers offered either in-house or through outside providers.

During fiscal year 1989-90, all of the developmental centers offered training to staff that dealt specifically with the needs of children residing in the developmental centers. The developmental centers provided child-specific training either as a component of other training courses, such as a cardiopulmonary resuscitation (CPR) courses that included instruction on performing CPR on infants and children, or through entire courses focused on the needs of children. For example, Lanterman, Porterville, and Sonoma Developmental Centers offered training courses to staff in the individual residential units that house children. These courses were designed to provide staff with information and skills for dealing with the special needs of the children residing in the units the staff worked in. Fairview Developmental Center provided training classes to staff specific to each program. A program includes several units whose residents share common developmental needs.Finally, all of the developmental centers offered training in detecting or reporting child abuse, or both during fiscal year 1989-90.

One-to-One Care

In addition to the state staffing standards discussed in Chapter 2 of this report, Title 22, Section 76355 of the California Code of Regulations states that the Department of Health Services (DHS) may require a developmental center to provide additional staff when a written evaluation of client care indicates that additional staff are needed to provide for adequate nursing care and the safety of clients.

Because of special medical or behavioral needs, some developmental center clients have short- or long-term needs for a staff-to-client ratio of 1:1. Staff such as physicians, interdisciplinary teams, or program directors evaluate the need for 1:1 care. The developmental centers may document the need for 1:1 care in a client's Individual Program Plan, in a memo, or in a specific request for extra staffing to accommodate the client's need.

Five of the seven developmental centers provided records of clients' needs for one-to-one care in a form that allowed us to determine the extent of that need without reviewing the entire file of every client. Of these five centers, three did not have any clients residing in the units who required one-to-one care during the four months of fiscal year 1989-90 that we tested. Of the two remaining centers that did have clients who required one-to-one care, both had sufficient staff present in the units to provide for the one-to-one staffing needs and still meet, with the remaining staff, the state and federal staffing requirements.

Other Areas Related to Clients' Program Plans

We conducted additional analyses related to the clients' Individual Program Plans (IPP) and their Individualized Education Programs (IEP). Specifically, we determined whether the developmental centers promptly completed the clients' IPPs, whether the appropriate persons attended the interdisciplinary team meetings, whether the clients were attending classes in the least restrictive environment, and finally, whether the developmental centers were maintaining attendance records for their clients. We conducted these analyses at only a few developmental centers because our review showed that the staff at the developmental centers were complying with the requirements for these areas.

Developmental Centers Are Promptly Completing the Clients' Initial Individual Program Plans

Title 22, Section 76315 of the California Code of Regulations states that a client's IPP must be completed within 30 days of the date the client is admitted to the developmental center. The IPP identifies the client's developmental, social, behavioral, recreational, and physical needs. It also includes established prioritized objectives for meeting the client's needs and identifies the method and frequency of evaluation of the client's progress.

To determine if the developmental centers were promptly completing the clients' initial IPPs, we reviewed 23 files at Sonoma Developmental Center. Our review disclosed 6 instances at the developmental center where staff took more than 30 days to complete the clients' initial IPPs. However, in 5 of the 6 cases, staff exceeded the 30-day requirement by no more than 2 days. In the remaining case, staff at Sonoma Developmental Center exceeded the 30-day requirement by 13 days; however, in this case the client's mother requested the developmental center delay the conference so that she could attend.

Interdisciplinary Team Members Are Attending Meetings To Review the Client's Individual Program Plans

Title 22, Section 76311 of the California Code of Regulations states that the following persons should be included as members of the interdisciplinary team: the client; the client's family when appropriate; persons who work directly with the client such as the client's physician, the registered nurse in charge of nursing services, the program director, or qualified mental retardation professional; and other persons whose participation is relevant to identifying the needs of the client and to determining ways to meet those needs. In addition, the section states that the interdisciplinary team is responsible for developing the client's IPP. Finally, the section requires that members of the interdisciplinary team participate in interdisciplinary team meetings when their attendance is appropriate to the client's needs.

To determine if team members were attending meetings, we reviewed 23 client records at Sonoma Developmental Center. First, we identified the active members of the team and their relationship to the client, and then, we compared the list of active members with the list of members who had attended the client's most recent annual interdisciplinary team conference. Our review disclosed that, in all 23 cases, the appropriate members of the interdisciplinary teams had attended the most recent IPP and IEP meetings.

Developmental Centers Are Providing Educational Services to Their Clients in the Least Restrictive Environment

Section 4501.5 of the Welfare and Institutions Code requires that state developmental centers ensure that appropriate special education and related services are provided to all eligible individuals with exceptional needs residing in the developmental centers. In addition, Section 56850 of the Education Code states a legislative intent that individuals residing in state developmental centers be ensured equal access to a full continuum of educational services. In addition, the code states a legislative intent that services be provided in the least restrictive environment.

Section 41601 of the Education Code states that the county superintendent of schools must report the average daily attendance for the schools within his or her county. To ensure that this information is collected at the developmental centers, the department requires the chief educational administrators at each developmental center to ensure that the developmental centers maintain pupil attendance records for clients attending classes at the developmental center or in the community.

We found that clients are receiving special education and related services in the most appropriate settings as indicated in the clients' Individualized Education Programs. We reviewed records for 60 clients at three developmental centers--Agnews, Lanterman, and Sonoma--and found that, in most cases, clients were attending classes in the appropriate setting either on grounds at the developmental centers or in schools within the community. In addition, we reviewed school attendance records for the same 60 clients and found that the developmental centers and community schools are properly recording attendance.

We also reviewed the education summary forms for these 60 clients at the three developmental centers. The education summary form identifies the client's present level of educational performance and his or her most appropriate educational setting as determined by the Individualized Education Program team. The team is composed of individuals relevant to the client's

special education needs. Members of this team are also members of the client's interdisciplinary team, which is responsible for the client's overall program plan.

At the time of our review, we found only 2 clients of the 60 we reviewed who should have been attending classes in community schools. However, we found that they were enrolled in classes at one developmental center rather than in the schools. The Individualized Education Program teams for these two clients had recommended a community school as the most appropriate educational environment. The chief education administrator at Sonoma Developmental Center, where these two clients reside, stated that these clients had been enrolled in classes at the developmental center because no space was available in the community classes for clients with their needs. Furthermore, the chief education administrator recently informed us that one client was placed into a community classroom in November 1990 and the other is on active referral to be placed into a community class.

In addition to reviewing educational summary forms to determine if clients were receiving their education services in the most appropriate setting, we also reviewed the attendance records for these clients to determine if the developmental centers and the county schools were maintaining attendance records as required by law. Our review disclosed that the developmental centers and the county schools in which the clients were enrolled properly maintained attendance records for all 60 clients in our sample.

Appendix B Detailed Methodology of Audit Work Performed at the Developmental Centers

Several of the analyses we developed for this report required complex methodologies; therefore, we have provided a detailed description of those methodologies in this appendix. In addition, the information that follows also describes the methodologies for those analyses where we limited our review to a few developmental centers or solely to Sonoma Developmental Center.

Clients' Rights Issues

Various interested parties including the Area IV Developmental Disabilities Board, the media, and parents of children at Sonoma Developmental Center made allegations that the Sonoma Developmental Center was abusing the rights of its clients. In addition, Protection and Advocacy Incorporated, which is a federally mandated clients' rights advocate, told us of its particular concern about the potential abuse of the clients' rights to consent to or deny the use of restraint for behavior management and the right to be free from unnecessary restraint. Therefore, we chose to focus our investigations on how well the developmental centers are protecting clients' rights in general by investigating how well the centers are protecting these rights to consent to or deny restraint and to be free from unnecessary restraint.

We visited the seven developmental centers between July and October 1990 to determine if staff were complying with state and federal laws and regulations, as well as their own policies regarding the approval and application of the use of restraint on clients. Since each developmental center has established its own policies to implement the laws and regulations pertaining to the use of restraint on clients, we first reviewed these policies at each center.

Next, we reviewed the clinical records of a sample of clients under age 18 at each developmental center to determine how well the centers were complying with the requirements in law, regulation, and in their own policies. We limited our review to clients who were subject to restraint between February 1989 and the date of our visit. At the first three developmental centers we visited, Sonoma, Lanterman, and Agnews, we selected our samples from three sources: random selection from the total population of clients under age 18 at the center; random selection from the center's list of clients under age 18 who, at the time of our visit, were approved by the Behavior Management Committee (BMC) for highly restrictive interventions (HRI); and clients who were not part of our sample but whom we found were receiving medications for behavior management when we visited residential units.

Because only a few of the clients we selected at random from the total population of clients under age 18 at the first three developmental centers had been subject to restraint, we limited our samples at the remaining four developmental centers to clients under age 18 who were approved by the Behavior Management Committee for HRIs. The number of clients approved by the Behavior Management Committee for HRIs ranged from 5 at Porterville Developmental Center to 27 at Camarillo Developmental Center with a total of 98 clients at all seven developmental centers.

Our sample consisted of 55 of the 98 clients listed as approved by the Behavior Management Committees for HRIs at all seven developmental centers. We randomly selected 44 of these clients from the listings of clients' approved for HRIs. In addition, during our visits to two developmental centers, we observed clients in the residential units and found 11 who were not part of our random sample, yet staff administered drugs often used for behavior management to these clients. Therefore, we also reviewed the clinical records of these 11 clients, 8 at Sonoma Developmental Center and 3 at Lanterman Developmental Center. All 11 of the clients were on the lists of clients approved by the BMCs for HRIs. Finally, as previously discussed in the Introduction of this report,

we randomly selected 29 clients from the total population of clients under age 18 at Agnews, Lanterman, and Sonoma developmental centers. Therefore, the total number of clients in our sample for all seven developmental centers was 84.

In our review of the clinical records of the clients in our sample, we determined whether the client was subject to any form of HRI between February 1989 and the time of our visit. If the client was subject to physical restraint, we determined whether staff had documented the type of restraint used, the duration of the restraint, and the periodic assessments of the client's condition. In addition, we determined whether the client was kept in restraint on any occasion longer than allowed in federal and state regulation or developmental center policies.

For the clients in our sample who had been subject to HRIs, we also determined whether staff at the developmental center had obtained consent for the use of the restraint according to the center's policies and whether the BMC and the Human Rights Committee had approved the use of the restraint for the period it was actually used.

At each of the developmental centers, we visited at least one residential unit that housed clients under age 18 who have behavioral problems. We determined if any clients were in restraint and observed whether staff properly documented the use of the restraint, applied the restraint without exceeding policy time limits, and periodically assessed and documented the condition of clients in restraint.

We summarized the occasions when each developmental center failed to comply with state and federal laws and regulations or with their own policies for the approval and application of restraint and asked the executive director at each developmental center to verify the accuracy of the results of our review. Further, we asked the executive director at each developmental center to explain the reasons for any failures to comply with legal and regulatory requirements.

Parents of clients and other interested parties made certain allegations directed specifically at Sonoma Developmental Center. Therefore, at Sonoma Developmental Center, we also investigated whether children had recreational opportunities and whether the center was placing violent children in residences with passive children and placing small children with large children.

To determine whether children had access to recreational equipment, we reviewed documents at Sonoma Developmental Center showing that the center had recently purchased recreational equipment for the Oaks unit, which, according to the executive director, is especially for children with behavior problems. We recorded items purchased since January 1990 and visited the Oaks unit to verify that a sample of these items were in place in the residence. The value of the items in our sample was 82 percent of the value of all the recreational items shown on the purchase documents for the Oaks unit.

To determine if Sonoma Developmental Center was placing violent children in the same residences with children known by staff to be particularly vulnerable, we reviewed reports of incidents that occurred between April 23, 1987, and June 12, 1990, when clients injured other clients who were under age 18. We then determined whether the injured clients had been residing on units with other clients who were known by staff to be aggressive. Finally, we interviewed staff to determine how they made decisions about where clients should reside.

We also investigated whether Sonoma Developmental Center was placing young children in residences with much older clients. Since we could find no criteria in law or regulation that defined a large child or a small child, we arbitrarily determined clients under age 13 to be small children and clients over age 18 to be adults. We obtained lists, provided by Sonoma Developmental Center staff, that showed all clients' ages and their unit of residence at the time of our visit. We then analyzed which residential units housed clients under age 13 with clients over age 18.

Developmental Center Staffing Levels

To determine the developmental centers' compliance with federal and state staffing standards, we selected the intermediate care unit in which the largest number of children reside at each developmental center. Using attendance records from each of these units, we calculated staff-to-client ratios. To calculate these ratios, we reviewed monthly attendance reports, daily sign-in sheets, overtime reports, records of employees who "floated" among units, and daily client population reports.

At Agnews, Lanterman, and Sonoma developmental centers, the three developmental centers with the largest number of clients, we reviewed these records for the months of September 1989, December 1989, March 1990, and June 1990. At the remaining four developmental centers, we reviewed the same kinds of records; however, we only reviewed them for the last week of each of the four months.

To test the developmental centers' compliance with the department's Client Development Evaluation Report (CDER) staffing guidelines, we reviewed the centers' vacancy reports, which compare the number of budgeted staff positions to the number of filled staff positions, and determined the average annual percentage of vacant direct care nursing positions at each facility for fiscal year 1989-90. We compared the average annual vacancies to the CDER staffing guidelines. We did not verify the accuracy of the vacancy reports. This percentage represents the amount by which staffing levels fell below the CDER guidelines. Because unfilled staff positions result in savings of funds budgeted for salaries, we also obtained letters of representation from some of the developmental centers outlining how the centers spent the money that was initially allocated for the vacant positions.

Finally, to determine if the developmental centers provide to their staff training courses that address the needs of children, we interviewed the training officer at each developmental center. In addition, we obtained representation letters or documentation from each of the developmental centers verifying the information provided in the interviews and the courses the centers offered.

Direct Care Staff Diversions

During the preliminary survey stage of our audit, developmental center staff alleged that direct care staff were diverted from client care duties to perform nonclient care duties such as food service. Thus, to determine if direct care staff were being diverted to perform nonclient care duties, we reviewed staffing records at Sonoma Developmental Center. Specifically, we reviewed the staffing records to determine if direct care staff at Sonoma were diverted to perform food service duties.

However, because staff time records did not specify job assignments, we could not determine if staff had been diverted to food service or to any other nonclient care duties. Therefore, we developed a questionnaire to query shift supervisors at all seven developmental centers about the various job duties of direct care staff who work on the supervisors' shifts. To assist us in developing appropriate language and questions for the survey, we interviewed the president of the California Association of Psychiatric Technicians.

We identified the units where clients under 18 were residing and distributed three surveys to each unit, one for each shift. When the respondents returned the surveys, we reviewed the responses and entered them into a database file.

To verify the responses and to request primary documentation of diversions, we developed a follow-up telephone survey and attempted to contact each of the survey respondents who stated that direct care staff had been diverted to perform nonclient care duties for a full shift. If, during the phone interview, the respondent stated that no full shift diversion had occurred, we adjusted the response on the data base. Likewise, we edited the data base to reflect other new or different information provided by the respondent during the telephone interview. Using the database file, we arranged and analyzed the survey responses.

Individual Program Plans

To determine whether staff were documenting clients' progress toward accomplishing objectives listed in the clients' Individual Program Plans (IPP), we reviewed 107 client records selected at random from the total population of clients under age 18 at the seven developmental centers. Initially, we reviewed each client's most recent IPP and identified the client's current objectives. Next, we reviewed the monthly progress reports for each objective we had identified and determined whether the progress reports were current. Further, we reviewed data collection sheets kept on the units where the clients reside and determined the following: whether all the objectives listed in the clients' IPPs were listed on the data collection sheets; whether the staff in the units were documenting the clients' progress toward accomplishing each of the objectives; and whether the staff were documenting the clients' progress in the frequency specified in the IPPs. Finally, we discussed exceptions with staff at the developmental centers to determine why they occurred.

Individualized Education Programs

To determine whether staff were documenting clients' progress toward accomplishing objectives listed in the clients' Individualized Education Programs (IEP), we reviewed 63 client records selected from the population of clients under age 18 at three developmental centers, Agnews, Lanterman, and Sonoma. As we did for our review of the IPPs, we reviewed each client's most recent IEP and identified the current objectives. Next, we reviewed the monthly progress report for each objective and determined whether the progress reports were current. Further, we reviewed the data collection sheets compiled by the staff and determined the following: whether the staff listed all the objectives; whether the staff were documenting the clients' progress; and whether the staff were implementing the objectives in the frequency specified in the clients' IEPs. Finally, we discussed the exceptions with the staff to determine why they occurred.

Educational Settings

To determine whether clients' educational settings were consistent with the settings recommended by the interdisciplinary team, we selected a random sample of 60 clients at three developmental centers, Agnews, Lanterman, and Sonoma. Specifically, we reviewed the IEP education summary sheet and identified the educational setting that the interdisciplinary team recommended as most appropriate for the client. Next, we determined the client's current educational setting and compared it with the setting recommended by the interdisciplinary team. Finally, for those clients whose current educational settings differed from those recommended by the interdisciplinary team, we interviewed the staff at the developmental centers to document the reasons for the differences.

Attendance

To determine if clients were attending classes and whether staff at the developmental centers were properly maintaining attendance records, we selected a random sample of 60 clients at three developmental centers, Agnews, Lanterman, and Sonoma. We obtained the classroom attendance records for these clients and calculated the number of days of instruction and the number of days each client attended classes. Next, we determined the number of days each client was absent by comparing the number of days of instruction with the number of days each client attended. Finally, we determined whether the absences were "excused" or "unexcused." Reasons for excused absences are illnesses, behavior problems, home visits, and clinic visits while reasons for unexcused absences include transportation problems, staffing problems, and no teachers' aides.

Initial Individual Program Plans

At Sonoma Developmental Center, we reviewed a sample of 23 client records to determine if staff at Sonoma completed clients' initial IPPs within 30 days of the dates the clients were admitted. We reviewed each client's initial IPP and calculated the number of days between the date the client was admitted to the developmental center and the date of the initial IPP that listed the client's goals and objectives.

Interdisciplinary Team Meetings

For the same 23 clients at Sonoma Developmental Center, we also reviewed the list of interdisciplinary team members to ensure that all the members attended the team meetings. First, we identified the active members of the interdisciplinary team and their relationship to the client. Next, we compared the list of active members with the list of persons who had attended the client's most recent interdisciplinary team meeting. Finally, for those clients whose parents did not attend the meetings, we reviewed the clients' records to determine whether staff at the developmental center had notified the parents of the time and place of the meetings.

Special Incident Reporting

To determine if staff at the developmental centers were following the proper procedures when they reported incidents that had occurred, we selected a sample of 142 special incident reports at the seven developmental centers. Although there are 28 categories of incidents, we limited our sample to those incidents that directly relate to the health and well-being of the clients.

To determine whether staff were following proper procedures, we first reviewed the policies and procedures established at each developmental center. We identified three procedures that staff at all seven developmental centers must follow when reporting a special incident and then reviewed each special incident report to determine whether staff had followed those policies and procedures.

To determine if there were any trends in the number of incidents involving clients under age 18, we reviewed special incident reports for fiscal year 1986-87 through 1989-90. To determine if a correlation existed between the number of incidents reported and the client population at each of the developmental centers, we also reviewed the population of clients under age 18 at each of the developmental centers during the same four fiscal years.

State of California Department of Developmental Services

Memorandum

To : Kurt R. Sjoberg
Auditor General (Acting)
660 J Street, Suite 300
Sacramento

Date : April 26, 1991

Subject : Response to the Auditor General's Review of Developmental Centers

From : Office of the Director
1600 9th Street
3-3131

The following provides comments on the report completed by your office entitled "A Review of the Seven Developmental Centers Operated by the Department of Developmental Services." As Director of the Department, the Agency Secretary has requested that I review and provide the response to the findings contained in the report.

To begin, I would like to commend the auditors for the professional and dignified manner in which they conducted the review of the seven developmental centers. As you well know, the audit was all-encompassing and focused on the delivery of care provided to children under the age of 18 years. The scope and level of staff resources dedicated to this audit was broad and inclusive; e.g., approximately seven auditors full-time, conducting extensive and lengthy field work, with the entire review lasting over one year. At all times the auditors were sensitive to the rights of the individuals residing at developmental centers, and they treated both residents and staff with respect and dignity. I applaud their approach and sensitivity.

Further, this Department and the developmental centers, in particular, are committed to using the findings of this review to make changes in those areas where room for improvement is indicated. The centers have looked positively upon this review throughout the past year, have committed a great deal of time and resources to providing information to the auditors, and welcome the objective assessment of the services which are provided to children. In our opinion, the report indicates that services are of a high quality but, as might be expected, there is room for improvement. We are committed to making these improvements.

The attachment provides the Department's response to each issue and includes related information which we believe is important to fully understanding the challenges that our residents and staff face each and every day. I thank you for permitting us to respond.

Dennis G. Amundson

DENNIS G. AMUNDSON
Director

DGA:CH:vc

Attachment

ATTACHMENT

RESPONSE TO THE OFFICE OF THE AUDITOR GENERAL: "A REVIEW OF THE SEVEN DEVELOPMENTAL CENTERS OPERATED BY THE DEPARTMENT OF DEVELOPMENTAL SERVICES"

INTRODUCTION

The focus of the audit was on services provided to clients under the age of 18 years who reside at the state's seven developmental centers serving persons with developmental disabilities. After extensive field work at three of the developmental centers, the scope of the audit for subsequent reviews at the remaining centers was refined to focus on clients' rights relative to the use of behavior intervention techniques, staffing of children's residences, documentation and special incidents. Additional reviews were also conducted to respond to specific allegations relative to services provided at Sonoma Developmental Center.

Prior to responding to the specific findings and recommendations, it is important to give a description of the clients under age 18 who reside at developmental centers and their needs. Hopefully, this will permit the reader to better understand the challenges which our residents and staff face on a day-to-day basis.

In California, there are currently over 100,000 persons with developmental disabilities who are clients of regional centers and receive services through the developmental services system. This system provides a broad array of services which includes alternative residential options for individuals who may need assistance, supervision or specialized treatment services. The continuum of residential settings range from independent living to those that provide highly specialized treatment services in a structured environment. Developmental center services are at the most structured and specialized end of the continuum; they serve the needs of the most medically and behaviorally challenged individuals.

Currently, fewer than 6,800 individuals reside at developmental centers; approximately 562 (8.2 percent) of this number are children. These children present complex and difficult medical and behavioral problems. They reside at developmental centers because services are unavailable in the community to meet their specialized needs; often, other less-restrictive living options have failed. Of the total number of children, approximately 354 (63 percent) reside in skilled nursing or an acute medical unit, and approximately 208 (37 percent) reside in intermediate care settings. The skilled nursing environment provides specialized medical services to children who are increasingly medically

fragile and severely disabled. The intermediate care, developmentally disabled (ICF/DD) setting provides primarily habilitative services to children with severe behavioral problems. The audit report focuses primarily on children residing in the latter setting.

The children who live in intermediate care units have generally been referred for admission to developmental centers due to difficult-to-manage maladaptive behaviors. These behaviors are often at such a level of intensity and frequency that they require highly specialized interventions. For example, a review of the 27 children admitted to an ICF/DD setting at Fairview Developmental Center since January of 1986, showed that all were referred due to intensive maladaptive behaviors of self-abuse, aggression, property destruction, pica (ingesting inedible objects), eloping, temper tantrums, and/or resistiveness. These characteristics are reflective of children admitted to other centers.

Many of these same children are severely or profoundly retarded and have little if any impulse control, although the degree of intellectual impairment varies. Many have a primary or secondary diagnosis of autism, and more than half have seizures of one type or another. In addition to mental retardation, their developmental disabilities often involve brain damage and specific neurological disorders and mental illness. Many need help with dressing, bathing, and other activities of daily living, and most are prone to significant behavioral outbursts, either of aggression, self-injury and self-mutilation, or destruction of property. Many are described as hyperactive. Some have required the assignment of a staff member specifically to provide supervision on a one-to-one basis at all times, due to their tendency to present a serious danger suddenly and unpredictably. Many of these children will wander away or purposefully run away if not constantly supervised. Simply put, these are children whose behavior problems are very difficult to manage.

In the vast majority of these cases, developmental center staff are able to develop treatment programs which allow these children to participate to a greater degree in the full array of active treatment services available at developmental centers and in community school programs. This is done while, at the same time, providing better management of their maladaptive behaviors. While the developmental centers can take great pride in the skillful way that they have intervened in behalf of these children, nonetheless, there are children who require highly restrictive forms of planned, structured behavior interventions in order to prevent injury to themselves or others. It is this group of children that is the focus of the auditor's review.

Given this framework, the following responds to each of the four areas addressed in the body of the report as well as the three areas which are addressed in Appendix A. The response will follow the same order as presented in the report. The Auditor General (AG) Audit Findings will be followed by the Department of Developmental Services (DDS) Response.

CHAPTER ONE: DEVELOPMENTAL CENTERS ARE NOT ALWAYS FULLY PROTECTING CLIENTS' RIGHTS TO BE FREE FROM EXCESSIVE RESTRAINT.

AG AUDIT FINDINGS

Findings:

A. The Developmental Centers Do Not Always Obtain Required Consents And Approvals For The Use Of Restraints.

1. Developmental center staff sometimes used physical and chemical restraints on clients without first obtaining the consent of the client or the clients' parents or guardians.

2. Staff sometimes applied restraints without first obtaining the approval of committees designed to ensure that clients are not subject to unnecessary or excessive restraint.

Methodology:

The auditors reviewed a sample of 84 client (14.6 percent) records from the approximately 576 clients under age 18 who were residing at developmental centers during the period of review. Auditors visited the seven developmental centers between July and October, 1990, to determine if staff were complying with state and federal laws and regulations, as well as their own policies regarding the approval of the use of restraint with clients. The review concentrated on clients who were subject to restraint between February 1989 and the date of the auditors' visit (through October 1990).

The auditors determined whether staff at the developmental centers had obtained consent for the use of restraint according to the center's policies, and whether the Behavior Management Committees (BMC) and the Human Rights Committees (HRC) had approved use of the restraint for the period it was actually used. In addition, the auditors reviewed records to determine whether staff had documented the type of restraint

used, the duration of the restraint application, and the periodic assessments of the client's condition while in restraint. They also determined whether the client was kept in restraint on any occasion longer than allowed in federal and state regulation or developmental center policies.

Discussion:

The auditors focused their investigations on how well the developmental centers are protecting clients' rights in general, as well as the right to consent to or deny restraint and to be free from unnecessary restraint. There are state and federal laws which specify the rights of persons with developmental disabilities and which prohibit the use of unnecessary physical and chemical restraint. The auditors defined restraints as highly restrictive interventions (HRIs) used to modify behavior but that can cause pain or trauma.

The auditors addressed only the programmed use of HRIs; those which are part of a planned, organized approach to treatment and included in a behavior management plan. Programmed uses do not include restraint used under emergency circumstances when clients exhibit unexpected behaviors that endanger themselves or others. Programmed uses also do not include the use of restraint for medical purposes such as restraint to prevent a client from removing an intravenous needle used in a medical procedure.'

The auditors found that staff are not always complying with state and federal laws and regulations or with their own policies. This was demonstrated by staff at six developmental centers who applied restraint with 22 clients (26 percent of the sample of 84) without consent from parents. In 21 of these 22 cases, no one provided consent for the use of the restraints, while, in the remaining case, a member of the developmental center staff provided consent. The auditors could find no record, however, to indicate that staff had attempted to contact the client's parents before the staff member provided the consent.

The auditors found that BMCs and HRCs approved behavior management plans that included HRIs even though staff had not first obtained consents from an authorized representative. Specifically, the BMC and HRC at six developmental centers approved use of restraint for 17 of the 22 clients who were placed in restraint without proper consent. In addition, the auditors found 15 cases where staff at six of the seven developmental centers had applied programmed HRIs to clients, at least between March 1989 and September 1990, without

approval of either the BMC or the HRC. In 7 of the 15, the centers did not obtain the approval of the committees before applying restraint. In the remaining eight cases, the centers continued to apply restraint even though the approval of one or both of the committees had expired.

Recommendations:

To improve its ability to protect the rights of clients under age 18 residing at the developmental centers, the Department of Developmental Services should take the following actions:

1. Ensure that staff obtain proper consent or approval before applying highly restrictive interventions (HRIs);

2. Establish a policy specifying what form of communication must be used and how that communication should be documented when developmental center staff contact the client, parents, or guardian for consent before using HRIs on clients;

3. Establish a policy clearly stating the steps developmental centers must take in cases when staff believe the HRIs are in the best interests of the client or are necessary for the protection of others, but the client or the client's parents or guardians either refuse to provide consent or cannot be located;

4. Ensure that the BMC and HRC at each developmental center do not approve plans for the use of HRIs unless legally adequate consent has been obtained;

5. Ensure that all developmental centers have administrative systems that will provide the staff who give direct care to clients timely information regarding which HRIs have been approved by the BMC and the HRC for each client; and

6. Ensure that each developmental center develops and uses a procedure requiring the appropriate committees to promptly review and approve or disapprove the continuation of HRIs that were used on clients before their admission.

DDS RESPONSE

The AG Audit Findings demonstrate that, despite the attempts by developmental centers to implement policies to ensure that appropriate consents and approvals are obtained for the use of restraints, this did not occur in all cases. The series of recommendations to the Department on the need for addi-

tional direction to centers relative to policies and procedures on appropriate consents is excellent. The Department immediately began to review and develop further guidance when this issue was brought to our attention by the audit staff. As a result, the Department will be issuing revised policies and procedures that will address the issues and be consistent and uniform between centers, within the next few weeks.

In addition, this issue has been extensively discussed at recent executive and clinical directors' meetings, thus providing further clarification and direction in this area in the interim. These discussions were based on the input and guidance which was obtained from the Department's legal staff. We are confident that the added direction will assist in ensuring that appropriate consents, reviews, and approvals will occur prior to implementation of planned behavioral interventions.

Lest the response imply that clarification of related policies and procedures is a simple task, it is important that the reader understand the complexity of the issue. This is not a case where most centers simply ignored the rights of clients in the 22 instances identified. It is, instead, a complicated area in which developmental center staff have attempted to balance statutory and regulatory requirements while addressing the needs of all residents to be free from excessive restraint and injury, whether from self injurious behavior or from injury from others.

As the auditors themselves noted, "In protecting a client's right to be free from harm, developmental centers must protect clients from both physical harm and from unnecessary or excessive restraint. These requirements are potentially conflicting. When clients' behaviors are self-abusive or violent toward others, staff must attempt to apply only sufficient restraint to prevent the clients from hurting themselves or others but not so much as to infringe on the clients' right to be free from unnecessary or excessive restraint." (Page 14 of the report.)

The forms of restraint which the audit staff refer to as highly restrictive interventions (HRIs) are those which can cause pain or trauma. The definition of pain and trauma was intentionally defined broadly by this Department through regulation. The Department wished to place restrictions upon the application of behavior intervention techniques to permit use only in controlled and monitored circumstances. In addition, the Department, through extensive work by professionals in the field, specified a continuum of behavior

management techniques ranging from non-restrictive to most restrictive forms; from pro-active, preventive, least restrictive, restrictive to HRI. The degree of restriction is based on the intrusiveness of the technique. Each form of intervention is accompanied by specific procedures for application by trained staff and for increasingly higher levels of review and approval to use the technique. Use of increasingly higher levels of restrictiveness is dependent on the type of behavior problem and the risks involved to the individual and/or others. HRIs are those techniques which generally constitute the most restrictive and intrusive approaches to behavior management; they do not necessarily or always involve pain and trauma.

It should be noted that, although this term is used throughout the audit report, the Department is not certain that it shares the same understanding with the auditors of the term HRI. More specifically, the interventions cited in the report may or may not be considered highly restrictive by the centers. The term has a highly specialized clinical meaning and thus should not be used to simply refer to restrictive behavior intervention techniques. Therefore, the terms restrictive behavior intervention technique or restrictive behavior management technique, which is always used as part of a behavior management plan, may be more appropriate and accurate.

Of the number of children currently residing in developmental centers, approximately 95 (18 percent) have behavior management plans specifying use of restrictive behavior interventions. This is not a large percentage of the entire population of children but it does reflect those with the most challenging maladaptive behaviors.

All behavior management plans are developed by the Interdisciplinary Team (IDT) which is composed of the professionals and direct-care staff who provide services to the client as well as the client and the client's authorized representative. The purpose of the IDT is to design and develop an individualized program plan (IPP) with time-limited goals and objectives and a schedule of services and activities for each client. In addition, the Department requires that all behavior management plans that include the use of highly restrictive interventions be reviewed and approved by a Behavior Management Committee (BMC) and a Human Rights Committee (HRC). The approvals by these committees must also be specific to the type of behavior manifested, the types of intervention which may be used, as well as the length of time in which a behavior plan may be utilized. The plans also

specify the goals and timeframes to move a client to a less restrictive way of managing, reducing and eventually eliminating the behavior intervention and the behavior for which the intervention is applied.

All seven developmental centers have both a BMC and an HRC in place. The BMC is responsible to ensure that the behavior plan and steps for intervention are technically correct and conform to clinically accepted behavioral procedures. The HRC is responsible to prevent the violation of clients' rights by review of behavior management plans and denial of approval for any plan to apply unnecessary or excessive restraint, and to ensure that consent for use of the intervention has been obtained. The functions of these committees are distinct and not quite accurately portrayed in the audit report as they reflect the requirements of Title 17 and 22; the centers follow, in addition to these, the ACDD standards governing these committees.(1)* Review and approval of both committees is required prior to use of specified behavior intervention techniques.

The Behavior Management Committees are composed of psychologists, physicians, pharmacists, nursing staff, and representatives of program management and professional disciplines.

The Human Rights Committee is composed of the Clients Right Advocate, representatives of program management and professional disciplines, and at least one client or parent who serves as a client representative. Additionally, at least one third of the membership is composed of individuals not affiliated with the center. These individuals are frequently local attorneys, members of the clergy, or representatives of consumer or community organizations.

The safeguards to protect the rights of clients in the use of behavior interventions are intended to occur through the IDT, BMC, and HRC processes and involve the client's parent, guardian, or other legally authorized representative. Involving parents, guardians or other legally authorized representative also means obtaining their consent. It is apparent that the necessary system for consent, review, and approval of behavior intervention techniques has not been applied in all cases.

As demonstrated by the auditors, the Department needs to revisit and clarify its statewide policy and procedural direction in this area. At present, each center has developed and is using policies and procedures which are based upon its interpretation of statutory and regulatory

*The Office of the Auditor General's comments on specific points in this response begin after the Department of Developmental Services' response.

requirements. These requirements have not always been clearly stated and have added to the centers' confusion. For example, interventions causing pain and trauma require BMC review and approval under Title 17; interventions involving aversive interventions and locked time-out require HRC approval under Title 22. Neither set of requirements specifies the involvement of both committees, and neither require BMC or HRC review for interventions which do not cause pain or trauma or do not involve aversives or locked time-out. Further, some interventions, when not used as part of a planned program, do not specifically require consent. The result is that center policies and procedures contain common and important elements but there are also some significant differences. For example, there is disparity in who may consent before either committee can approve use of behavior management techniques. As the audit notes, when parents cannot be located, three centers allow a member of the staff to consent; three specify no one else to consent, and; one does not specify that an attempt must first be made to obtain consent from the parent before developmental center staff can provide consent.

In addition, some policies give direction to staff on how to communicate and document attempts to secure consents from authorized representatives. Others, however, are silent. None definitively states what should be done in the rare cases involving children where there is no authorized representative or parents refuse to give consent. Lastly, some policies may incorrectly state the authority and scope of application of general consents for care and treatment and general consents for medical care. Based upon our recent extensive review of this issue, neither general consent is adequate to permit the use of restrictive behavior interventions.

Given the lack of clarity in these areas, developmental centers were not always securing the necessary consents and approvals prior to implementation of restrictive behavior management plans. It is also important to note, however, that there were extenuating circumstances in most, if not all, of the cases identified by the auditors which added significant complexity to the issue of obtaining appropriate consents and approvals.

For example, some of the problems were caused as a result of a new admission in which children were admitted with behavior management plans in place; to immediately discontinue the existing program could have been extremely harmful to the child. This is particularly true for those admitted on

behavior modifying medications. These medications cannot be immediately halted and must be carefully titrated, if such action is determined appropriate. Therefore, the program was continued pending review, approval, and consent from the parents, as well as review and approval from appropriate groups.

Other problems were caused by delays in obtaining review by the appropriate committees; those which required the scheduling and participation of non-affiliated public members. Still other problems were caused by failure to note expiration of consents to treatment from parents or approval by committees. And, lastly, some problems were caused by the time delays in reaching parents and actually placing required consents in the client's record.

These explanations are offered as examples of the complexity of this issue and the unique circumstances involved in each case. It is not a simple issue. The auditors findings, however, do not reveal any attempt on the part of developmental center staff to limit or restrict the rights of clients to live in an environment which permits the greatest individual freedoms possible. It is our assessment that the findings reflect the honest efforts of developmental center staff to interpret the requirements of law and regulation in the interests of providing a safe and rewarding environment for all clients.

In conclusion, the Department is committed to aggressively implementing the recommendations listed above. The Department has already, with the assistance of its legal staff, drafted a policy and procedure which will be implemented at all seven developmental centers. The draft addresses all of the recommendations made by the auditors. The draft policy and procedures will be reviewed and finalized by the centers' clinical directors, approved by the executive directors, and implemented within the next few weeks. In the meantime, all centers have been provided with additional direction in this area. The Department commends the auditors for their diligence in identifying the issues, and assisting us in defining the central components needing to be addressed.

AG AUDIT FINDINGS

Findings:

A. The Developmental Centers Do Not Always Adhere To Requirements For Applying, Monitoring, And Documenting The Use Of Restraint On Clients.

1. Staff did not always properly record the use of restraint on clients and did not always record the periodic assessment of the clients' condition while in restraint, contrary to state and federal regulations.

2. Staff sometimes kept clients in restraint for periods in excess of the maximum time allowed by federal regulation and developmental center policy.

Methodology:

The auditors used the same sample as in the previous findings: the sample consisted of 84 client records.

Discussion:

State regulations require staff to record each use of physical restraint and periodic assessment of the condition of clients in restraint. Staff at three developmental centers did not always properly document the required periodic assessments of the condition of clients in restraint; this occurred for six of the clients in the sample who were listed as approved by the BMC for use of physical restraint. In these cases, staff failed to record the length of time the client was in restraint or document an assessment of the condition of the client at least every 30 minutes. Further, staff at two developmental centers applied the restraints for five clients for longer periods than allowed by state and federal regulations and the developmental centers' policies.

Recommendations:

To improve its ability to protect the rights of clients under age 18 residing at developmental centers, the Department of Developmental Services should take the following actions:

7. Require each developmental center, with the participation of direct care staff, to develop and use a system that does not interfere with the ability of staff to provide care to clients but enables staff to record the use of

restraint on clients and the periodic assessment of the condition of clients in restraints; and

8. Ensure developmental centers do not exceed regulatory time limits for the application of physical restraints to clients (eliminate the authority of direct care staff at any developmental center to exceed the regulatory time limits for the application of physical restraints to clients).

DDS RESPONSE

Each center has developed policies that contain provisions similar to those in state and federal regulations although, in some cases, the developmental centers' provisions are more restrictive. Federal provisions for the application of restraints require centers to assess and record, at least every 30 minutes, the condition of clients who are in physical restraints. In addition, federal regulations state that clients can be kept in locked-time out for no longer than 60 minutes at a time. Locked time-out is a clinically defined technique which consists of keeping a client confined to a room, while under direct observation of a staff member, as part of a planned and systematic removal from positive reinforcement.

In addition, State regulations contain requirements related to the application and documentation of restraint and require staff to perform periodic assessment of clients in physical restraints every 30 minutes. In addition, staff are required to record each use of physical restraint. All seven developmental centers have policies requiring staff to complete the required documentation of each use of restraint and the length of time clients are in physical restraint.

Some centers have chosen to implement more restrictive policies in some areas. For example, Camarillo requires staff to assess and record the condition of clients in physical restraint every 15 minutes instead of the 30 minutes specified in federal and state regulations.

Generally, developmental centers follow more restrictive procedures than what are required by state and federal regulations. Each developmental center has in place a system to review documentation on the use of physical restraint as one component to ensure compliance. The reviews take place at various levels dependent on the nature of the behavior intervention technique. The use of restraints is highly regulated and the documentation is quite specific at each center. The

review of documentation occurs at several levels. Typically, the review systems begin with residence managers reviewing and verifying documentation of instances of physical restraint. Documentation is then also reviewed by program management staff as well by an additional independent sources, often the chairperson of the Human Rights Committee, Clients' Rights Advocate, a Senior Psychologist, or a behavior review team. Centers also maintain a behavior management data collection and review function which permits further review by executive level management staff as well as each center's quality assurance oversight function. Management oversight occurs at all centers; the use of increasingly restrictive techniques requires increasingly higher levels of review by management.

Despite each center's review mechanisms, unfortunately there will be failures on the part of some staff to complete or appropriately include in the clinical record the required documentation. As the auditors noted, the executive directors of two developmental centers where staff had failed to document the required periodic assessments stated that they believed that staff had actually performed the assessments, but had failed to document their work or had misfiled the forms. Certainly, the auditors' observations while on the units would support that this could quite easily occur. They noted that staff are kept very busy with clients who are mobile and active which could easily curtail the ability of staff to stop to make detailed notes on the use of restraints.

The Department concurs that it is necessary to document the use of restraint and to perform, and document, periodic assessments of clients in restraint. Periodic assessment of each client's condition while in restraint is necessary to ensure proper positioning and that the restraints are not limiting circulation or damaging the skin. There is also an issue of safety from purposeful or untoward acts of other clients while an individual is in restraint.

Therefore, the Department will review the current policies and procedures in place at each center to determine what additional corrective action measures should be implemented. Further, the two centers identified as permitting direct care staff to exceed regulatory time limits for the application of physical restraints will immediately revise their policies to prohibit this practice. It should be noted that one center revised its policy in this area upon presentation of these findings by the audit staff during their exit conference at the center.

The Department will also work to implement the intent of the audit recommendation to develop a documentation system which does not interfere with the ability of staff to provide care to clients. Unfortunately, documentation requirements are often viewed as interfering with the ability of staff to provide direct care to clients. The Department, however, will shortly initiate its planned effort to revisit existing service documentation requirements. This effort was conceived in response to the numerous and often conflicting paperwork requirements which have been placed on staff as a result of various federal and state laws and regulations, as well as departmental policy. The Department plans to zero base and rebuild its documentation system to ensure that requirements are met in the most efficient and effective manner.

The developmental centers have demonstrated a commitment to compliance with state and federal laws and regulations, and to the policy to use restraints in only the most controlled and monitored circumstances. Regardless of established policy and procedure, there are times when either it is not followed entirely or is not documented adequately. This is not acceptable to the Department and efforts will be renewed to ensure that both procedures and documentation requirements are followed. Any instance of less than full compliance in this area is, however, reason for the Department to immediately initiate followup and appropriate corrective action.

CHAPTER TWO: DEVELOPMENTAL CENTERS ARE MEETING MOST STAFFING STANDARDS

AG AUDIT FINDINGS

Findings:

A. Developmental centers are usually meeting the federal and state staffing standards we tested for direct care staff; however, they are not meeting the staffing guidelines established by the Department.

Methodology:

To determine developmental center compliance with certain federal and state staffing standards, the auditors reviewed various attendance records for the intermediate care facility (ICF) unit where the largest number of clients under age 18 reside at each center. At three of the seven developmental centers, auditors reviewed the attendance records for the

last month of each quarter of fiscal year 1989-90. These were the centers with the largest number of clients (Agnews, Lanterman and Sonoma). At the remaining four developmental centers, the auditors reviewed the attendance records for the same months; however, instead of reviewing the records for the entire month, they reviewed one week from each of the four months.

The auditors also used attendance records from each of these units to calculate staff-to-client ratios. To calculate these ratios the auditors reviewed monthly attendance reports, daily sign-in sheets, overtime reports, records of employees who "floated" among units, and daily client population reports.

To test developmental center compliance with the Department's own CDER staffing guidelines, the auditors reviewed the centers' vacancy reports, which compare the number of budgeted staff positions to the number of filled staff positions, and determined the average annual percentage of vacant direct care nursing positions at each facility for fiscal year 1989-90. The auditors compared the average vacancies to the CDER staffing guidelines. This percentage represents the amount by which staffing levels fell below the CDER guidelines. Because unfilled staff positions result in savings of funds budgeted for salaries, the auditors also obtained letters of representation from some of the centers outlining how the centers spent the money that was initially allocated for the vacant positions.

Discussion:

The auditors found that centers are usually meeting both federal and state staffing standards; however, none is meeting the Department's CDER staffing guidelines. Federal and state regulations specify the minimum number of staff needed to deliver services. Developmental centers must meet federal standards to receive federal funds and must meet the state standards to be licensed. The CDER staffing guidelines were developed by the Department to specifically address the needs of clients residing at developmental centers. These guidelines incorporate staffing minimums identified in federal and state requirements, and supplement these standards based on direct client needs.

The auditors found that five of the seven centers met federal and state standards during the time periods reviewed. The two centers which did not always meet the standards were below the minimum staffing levels for only a few days in the

review period. For example, Porterville did not meet the federal standard for two of the 28 days reviewed, and Fairview did not meet the standard for one of the 28 days reviewed. In addition, the same two centers did not meet the 1:20 staff-to-client ratio required on night time shifts; Fairview did not meet it on six days and Porterville did not meet it on two days.

The auditors determined that the reason for the Fairview and Porterville failures to meet federal and state staffing standards is that both established minimums that were too low. On occasion the units maintained these minimums by borrowing staff from other units that were staffed above minimum, or used overtime. Even with this, the two developmental centers were still able to meet the legal standards for most of the days; the centers still staffed their units above the local minimum staffing levels most of the time.

In addition, the auditors found that none of the centers is meeting the Department staffing guidelines. According to the auditor's calculations, the average staffing levels at the developmental centers ranged from 6.9 percent below to 20.9 percent below the CDER guidelines during fiscal year 1989-90.

Recommendations:

To ensure that the developmental centers are staffing residential units in accordance with legal requirements and the Department's own standards, the Department should take the following actions:

1. Revise the minimum staffing guidelines at each developmental center to ensure that they comply with the federal and state staffing requirements;

2. Ensure that Porterville Developmental Center develops and implements a system to more effectively track the temporary reassignment of staff necessary to maintain minimum staffing when regularly scheduled staff are absent; and

3. Continue its recruiting efforts to fill all direct care staff positions authorized in its budget.

DDS RESPONSE

The developmental centers are in compliance with legally required staffing minimums, with only isolated exceptions at two developmental centers. These exceptions were caused by a misunderstanding and will be immediately corrected. The so-

called CDER staffing guidelines were developed by the Department; they are not legal or regulatory requirements.

The developmental centers must comply with legally established federal and state staffing guidelines to ensure continued licensure and certification. In addition, the Department supplements federal and state minimum staffing levels through use of its own departmental staffing standards. Together, these standards provide the basis upon which developmental center staffing needs are assessed and budgeted.

Federal regulations require one staff to every 3.2 clients in a 24 hour period for ICF/DD units serving clients under 12 years of age. The auditors calculated the staff-to-client ratio for one ICF/DD unit at each developmental center during fiscal year 1989-90 and compared this with federal staffing standards. State regulations require a minimum average of 2.7 nursing hours per client per 24 hour period for ICF/DD units including aides, nurse assistants, RNs, LVNs and PTs. And, a minimum of 1:20 between the hours of 10 p.m. and 5 a.m. for ICF residences.

This means that on a residence of 32 clients, 10 staff would be needed over 24 hours. Spread over three shifts, the 10 staff would typically be assigned as follows: Four on the day shift, four on the evening shift, and two on the night shift. The delivered staff-to-client ratio, then for each of these shifts, would be 1:8, 1:8, and 1:16. The regulations were intended to allow flexibility over a 24-hour day to account for periods of heavier or lighter client activity. For example, if most clients are away at school or with teachers during the day shift, that shift would be lighter staffed and the evening shift, when clients were in their residences, would be staffed more heavily. When figured in terms of nursing hours per client per day, these ratios would result in 2.5 nursing hours per client over 24 hours (10 staff X 8 hours/day = 80 hours divided by 32 clients = 2.5 hours per client.

However, the state requirement for a minimum average of 2.7 nursing hours per client per day revises the calculations slightly. This means that over a 24-hour period, 86.4 hours of nursing staff (including aides, nurse assistants, RNs, LVNs, and PTs) would be needed for a residence of 32 clients (32 X 2.7 hours = 86.4). Eighty-six point four hours would equate to 10.8 or 11 staff. Spread over three shifts, 11 staff could be assigned as follows: 4.5 days; 4.5 evenings;

and 2 on night shift. This allocation would result, for a residence of 32 clients, in ratios of 1:7, 1:7, and 1:16.

Based on the audit findings, the level of developmental centers' compliance with required staffing minimum is extremely high. Staffing exceptions were noted for only two centers that were below required staffing minimums for short periods of time. While this is not acceptable, it is important to note that these exceptions occurred based upon the Department's understanding of state minimum staffing requirements.

The Department and each of the developmental centers understood that a 1:8, 1:8 and 1:16 ratio rather than 2.7 nursing hours (1:7, 1:7, and 1:16 ratios) applied to developmental centers. Given the Department of Health Services' clarification that the latter figures applied, both Fairview and Porterville will immediately revise their staffing patterns to reflect current requirements. Both centers were mostly in compliance with required federal and state minimum staffing standards despite this difference in understanding, due to the Department's own standards which supplement minimum staffing levels.

The Department's level-of-care (LOC) staffing standards were formally approved and established in 1973. The LOC standards have undergone fine-tuning since that time, but last underwent any significant revisions in 1979. Non-level-of-care (NLOC) standards were finalized in 1983. These additional staffing guidelines are based on client needs assessed using the Client Development Evaluation Report (CDER). The standards are based on the Department's determination of the amount and types of treatment and activity time needed by clients in each of the nine preferred program types, which is then converted into staffing indices. The staffing indices specify the number of professional and nursing staff needed per client in each type of program.

It is not surprising that the Department's staffing standards were met by none of the developmental centers. There are some fundamental issues involved in budgeting which are not addressed in the staffing standards. The issue with the greatest impact is the salary savings requirement which is included in the budget for the developmental centers, as it is for all state operating budgets. Since the staffing standards do not reflect a salary savings requirement, the result is that staffing levels will always be less than the staffing standard by at least that amount. As the auditors noted, the salary savings requirement in fiscal year 1989-90

was 6.41 percent; the budgeted salary savings requirement in the current year is 5.0 percent. In addition, any other funding shortages also directly impact the ability of developmental centers to meet departmental staffing standards.

The Department has undertaken a major effort, initiated in early 1990, to revise its staffing standards. Phase I of this project has been completed; however, given current fiscal constraints, additional resources will not be forthcoming at this time.

The auditors are also correct in noting that some developmental centers have difficulty recruiting and retaining staff. This is especially true for recruitment of licensed nursing staff in high cost geographic areas where competition among employers is significant. The Department has placed heavy emphasis on the recruitment and retention of direct care staff to meet the needs of developmental center clients. Most centers are actively engaged in recruitment activities to reduce the number of vacant direct care staff positions.

For example, Agnews contacted over 12,000 licensed psychiatric technicians to solicit those interested in employment. Various hire-above-minimum incentives have been used for hard-to-recruit classes. Most centers participate in local job fairs and community activities to provide information regarding career opportunities. Some centers are also actively involved with psychiatric technician trainee or other-hard-to recruit classification programs, often in conjunction with local community colleges. Some centers are involved in sponsorship of trainees to obtain professional licensure. Others are involved in programs with local high schools to provide students with orientation to work opportunities. All advertise in some way or another the opportunities for employment at developmental centers.

Contrary to the audit recommendations, it should be noted that the Department will not be able to fill all direct care staff positions authorized in its budget. As the auditors have ably pointed out, the Department is subject to salary savings requirements and other funding shortfalls which require that some positions remain vacant. Thus, it is not possible for the developmental centers to fill all direct care positions. The Department will, however, continue the policy of placing the highest priority on filling direct care vacancies to the extent possible within budgeted resources.

Finally, Porterville Developmental Center will modify its system to provide a permanent record of the temporary reassignment of staff to other residences. Specifically, Porterville will add a section to the Daily Log maintained on each residence which will provide a sign in/out procedure for borrowed/loaned staff. Each residence supervisor or designee will monitor this for compliance.

Overall, the audit results indicate that the developmental centers are meeting required federal and state staffing requirements, with only slight exception. The exceptions at two centers were the result of a legitimate misunderstanding relative to the requirements of the State's licensing entity. These situations will be immediately corrected to prevent future occurrences.

AG AUDIT FINDINGS

Findings:

B. Direct care staff at the developmental centers are sometimes diverted to perform duties that are not directly related to client care.

Methodology:

To determine if direct care staff were being diverted to perform non-client care duties, the auditors reviewed staffing records at Sonoma Developmental Center (SDC). Specifically, the auditors reviewed the staffing records to determine if direct care staff at SDC were diverted to perform food service duties. However, because staff time records did not specify job assignments, the auditors could not determine if staff had been diverted to food service or to any other non-client care duties. Therefore, a questionnaire was developed to assist in obtaining this information.

The auditors conducted a survey of shift supervisors for every unit where clients under age 18 reside at each of the seven developmental centers to determine if direct care staff were diverted to perform non-client care duties. A total of 228 surveys were distributed and 178 (78 percent) responses were received. To verify the information provided, the auditors developed a followup telephone survey and attempted to contact each of the survey respondents who stated that direct care staff (on their shift) had been diverted to perform non-client care duties for a full shift. It is unknown how many telephone contacts were made by the auditors with these respondents.

Discussion:

Both federal and state regulations state that direct care staff should not perform duties which interfere with direct client care. However, the auditors conclude that direct care staff are not always performing duties related to client care based on the results of the questionnaire. A total of 145 (81 percent) reported that direct care staff were sometimes diverted to non-client care duties for a portion of a shift. Several said the duties included laundry, bed making, shopping, paperwork, housekeeping, maintenance and food preparation. For example, 128 (88 percent) listed laundry as one of the duties. The majority of diverted staff were diverted for only a portion of their shift.

However, some direct care staff claimed that diversions had occurred for a full shift. A total of 15 (8 percent) said direct care staff had been diverted for a full eight-hour shift. Of these, 2 stated they were not counted toward the minimum number of direct care staff required in the unit, while 13 said they were or may have been.

Recommendations:

To prevent the diversion of direct care staff to perform non-client care duties, the Department should take the following actions:

1. Follow up on our survey results to determine the specific reasons that direct care staff are diverted to non-client care duties; and

2. Take appropriate action to minimize unnecessary direct care staff diversion, such as requiring the developmental centers to provide support staff on each shift and ensuring sufficient coverage when support staff are scheduled off or are absent because of illness.

DDS RESPONSE

The Department will follow up on the results of the survey conducted by the auditors. It is, however, important to note that this methodology, while producing useful information for further review, is not particularly reliable in its present form. A significant problem with the data is the definition of terms used. For example, the terms "diversion" and "non-client care duties" can have significantly different meanings to different people. ②

As the auditors note, the duty statements for direct care staff such as psychiatric technicians require them to maintain a clean, safe, and homelike environment. Thus, some direct care staff must perform some tasks that some may believe do not directly involve client care. The auditors acknowledge that these activities are not considered a diversion, but survey respondents may not have made this distinction.

The Department's philosophy, and indeed the philosophy in service delivery for persons with developmental disabilities, is to provide services in a homelike environment. As a result, most developmental center residences have washers and dryer used to launder clients' personal clothing. Staff may thus be contributing to loading and unloading clothing. Further, food preparation could also be confusing since meals are now served family style and reflect dining arrangements as close as possible to those in most homes. Snacks are also prepared in residences to greet clients returning from school and during evening leisure and recreation time. Shopping is also an activity encouraged by regulations, to provide clients opportunities to choose their own clothing and personal belongings and to present clients with new learning opportunities. Thus, staff could be involved in these activities and it would not be considered a diversion of staff to non-client care duties. These, and other factors, contribute to the possible unreliability of the survey.

The notation that some staff considered paperwork a diversion of direct care staff to non-client care is also confusing, especially based on the issues previously reviewed. Paperwork is an important part of the responsibilities of direct care staff. Presumably, the response reflects most peoples' desire for less paperwork requirements.

Analysis of the survey responses in comparison to actual staffing records will provide more information to validate the data and the conclusions presented. In fact, at this point, conclusions cannot be reliably drawn from the information. The analysis is necessary in order to confirm and to determine the extent of any diversions of staff from non-client care duties. This step would complete the necessary analysis and provide more reliable information for the Department to use in taking appropriate followup action.②

Therefore, the Department will implement the auditors' recommendation to follow up on the survey results. Developmental centers constantly attempt to avoid diversion of staff from direct client care duties. Unfortunately, this is sometimes

unavoidable when unexpected staffing shortages occur in other areas which require attention. The Department honestly acknowledges that staff must be utilized to perform many activities, some of which may not be directly client care related. Each center must daily operate by carefully balancing the highest priority needs for staffing to meet the needs of its residents.

To provide a better solution to this dilemma, the Department is approaching this task on at least three fronts. First, the Department is in the midst of revising its staffing standards to more accurately reflect the nature of the work to be performed based on current service philosophy and client needs. Second, current classification structures are under review to ensure that work is assigned to the appropriate level of staff. Consistent with the auditors' findings, there is work which can be adequately and appropriately performed by support staff, thus providing more opportunities for licensed nursing staff to interact with and serve clients. Finally, efforts to review paperwork and documentation requirements are anticipated to result in improved "user friendly" systems which least detract from serving clients. The Department has always tried to make paperwork requirements less intrusive; however, the continual addition of new requirements may have detracted from our efforts. The developmental centers believe that the issues have been accurately assessed and they are being addressed.

With regard to the auditors' second recommendation, the Department is well aware that there is much work that can be completed by non-direct care staff. It is not always possible, however, to assign a support staff person to each residence. Each center must evaluate its needs and resources, and make appropriate assignments of work, all within its budgeted level. As indicated, every effort will be made to assist developmental centers in the appropriate assignment of work to appropriate classification levels.

CHAPTER THREE: DEVELOPMENTAL CENTERS ARE NOT ALWAYS DOCUMENTING THE IMPLEMENTATION OF THEIR CLIENTS' PROGRAM PLANS.

AG AUDIT FINDINGS

Findings:

A. Staff at the developmental centers are not always documenting the implementation of clients' Individual Program Plans (IPPs).

B. Staff at the developmental centers are not always documenting clients' progress toward accomplishing objectives established in clients' Individualized Education Programs (IEPs).

Methodology:

To determine whether developmental center were properly implementing the objectives in the clients' IPPs, auditors selected a random sample of 107 client records at the seven centers from Department listings of clients under age 18 years. First, the auditors reviewed each client's most recent IPP and identified the client's current objectives. Next, the auditors reviewed the monthly progress reports for each objective that had been identified and determined whether the progress reports were current. Further, they reviewed the data collection sheets kept on the units where the clients reside and determined, first, whether all the objectives listed in the clients' IPP were listed on the data collection sheets; second, whether the staff in the units were documenting the clients' progress toward accomplishing each of the objectives; and third, whether the staff were documenting the clients' progress in the frequency specified in the IPPs. Finally, the auditors discussed exceptions with staff at the DCs to determine why they occurred.

To determine whether the developmental centers were properly implementing the clients' progress toward meeting objectives identified in the clients' IEPs, the auditors reviewed a random sample of 63 client records at three of the centers (Agnews, Lanterman and Sonoma). The auditors selected these three centers because the largest number of clients under age 18 reside at these facilities. The auditors used the same methodology as noted above for review of the IPPs.

Discussion:

The auditors found that centers are not always documenting clients' progress toward reaching objectives identified in the IPPs. For example, of the 107 client records reviewed, they found 17 instances for 15 clients where staff had not properly documented clients' progress toward meeting goals listed in the clients' IPPs. For 11 of the 17 instances, progress documents were not current.

Federal regulations require an Individual Program Coordinator (IPC) to coordinate all activities necessary to implement the client's IPP. The IPC is also to ensure that progress is documented. The auditors spoke to four IPCs responsible for

four clients with documentation problems. The findings would seem to indicate that IPC duties were not performed adequately in these 17 identified cases.

Finally, the auditors found that centers are not always documenting clients' progress toward meeting goals listed in the clients' IEP. For example, they reviewed IEPs for 63 clients and identified 8 instances for 7 clients where staff did not always document their clients' progress toward meeting goals in the IEP. In five instances involving four clients, they found that staff did not record progress in the proper frequency.

Recommendation:

To ensure that clients' records accurately reflect the clients' actual progress, the Department should take the following action:

1. Ensure that staff at the developmental centers are recording the clients' progress toward reaching objectives specified in the clients' IPPs, and ensure that staff are recording the clients' progress toward accomplishing objectives identified in the clients' IEPs; and

2. Re-evaluate the workload of the individual program coordinators to ensure that the coordinators have enough time to periodically review client records and data collection sheets in the clients' residential units.

DDS RESPONSE

The audit results indicate that the developmental centers are not in complete compliance with IPP and IEP documentation requirements. The documentation requirements for IPPs were met for 84 percent of the sample and for 86 percent of the sample for IEPs. Developmental centers require staff to complete required documentation. It is, however, an area in which some failures to document will occur. No matter how hard centers may impress upon their staff the need for documentation, some of it will not be done. The Department is, however, revisiting the entire area of documentation and quality assurance followup to improve our performance in this area.

As mentioned previously, the Department will shortly be initiating an effort to look at its entire documentation system in light of recent changes including the Nursing Home Reform Act (commonly referred to as OBRA 1987). A goal of

this effort will be to streamline reporting requirements to make the tasks of documentation less burdensome for those who must complete the task. It is hoped that continued efforts to implement "user friendly" documentation systems will result in increased levels of compliance.

Documentation is important to the IPP process; however, it is not the only source of input. An IPP is a written plan of action with a specific set of behavioral objectives designed to improve a client's capabilities. As part of the IDT process, the team uses evaluations, assessments, and previously implemented training programs and health care plans to determine whether the client's IPP is appropriate. The IDT relies in part on periodic reports prepared by the developmental center staff who care for the clients. Progress on objectives is to be documented at least monthly. Although documentation is important, the participants in the IDT process also add first-hand knowledge and information to the decision-making process based on interactions with each client.

The second recommendation encourages the Department to re-evaluate the workload of the individual program coordinator (IPC) to ensure that enough time is available to periodically review client records and data collection sheets. The Department has re-evaluated the role of the individual program coordinator and developed appropriate staffing standards for this activity. Completion of this effort is, of course, dependent upon the availability of resources to permit implementation. In the meantime, some centers have shifted resources to permit staff to focus on IPC duties.

CHAPTER FOUR: DEVELOPMENTAL CENTERS ARE FOLLOWING PROCEDURES FOR REPORTING SPECIAL INCIDENTS.

AG AUDIT FINDINGS

Methodology:

To determine if staff at the developmental centers were following the proper procedures when they reported incidents that had occurred, the auditors selected a sample of 142 special incident reports at the seven centers. Although there are 28 categories of incidents, the auditors limited their analysis to those incidents that directly relate to the health and well-being of the clients (15 items). To determine whether staff were following the proper procedures, the auditors first reviewed the policies and procedures estab-

lished at each developmental center. They identified procedures that staff at all centers must follow when reporting a special incident and then reviewed each special incident report to determine whether staff had followed those policies and procedures.

To determine if there were any trends in the number of incidents involving clients under age 18, the auditors reviewed special incident reports for fiscal years 1986-87 through 1989-90. Again, they limited the analysis to the 15 items. To determine if a correlation existed between the number of incidents reported and the client population at each developmental center, the auditors also reviewed the population of clients under age 18 at each of the centers during the same four fiscal years.

Discussion:

Staff at the seven developmental centers followed proper procedures for reporting all 142 incidents. It was found that the number of special incidents involving clients under 18 years of age has fluctuated during the past four fiscal years (FY). For example, the number decreased from 632 in FY 1987-88 to 608 in FY 1988-89, then increased to 641 in FY 1989-90. At only two developmental centers, Agnews and Sonoma, the number of incidents has continually increased.

Recommendations:

None

DDS RESPONSE

The Department places significant emphasis on the reporting, investigation and followup of special incidents, especially those which may directly impact the well-being of residents or staff. The results of the audit are confirmation of the efforts of developmental center staff.

The Department's policy requires each center to maintain a special incident reporting system. Center's are to ensure that each incident is investigated, that corrective action is taken to prevent the possible recurrence of the same type of incident, and that information about incidents is communicated to all centers when incidents have occurred that may indicate existence of systemwide problems. The special incident reporting system provides a mechanism to identify and respond to unusual events that may impact the individuals who reside or work at developmental centers. Great emphasis

is placed on completion of timely and accurate reports, and reports are monitored to ensure appropriate followup and to identify trends.

Due to the auditors' selective analysis of only 15 categories of special incidents, the Department has not yet been able to confirm or provide the specific reasons for the increase in the number of reports at Agnews and Sonoma Developmental Centers. There are, however, a variety of reasons that this could occur.

For example, there may be a number of independent, special requirements within a center, program, and residences that skew the actual number of incident reports. The administration may ask the program to focus on a specific area, issue or client. This could increase reporting. A program director may require internal, additional reporting and recording for any particular item he/she might want. Some parents want everything reported to them and as a result, staff may over document via the special incident process. Further, some incidents that are described as accidental may actually result indirectly from a behavior problem.

In addition, the Department's emphasis on reporting may have changed reporting practices. Reports are required for all injuries, deaths, AWOLs and any other unusual event or circumstance that might affect a client's well being. Further, child abuse reporting requirements and documentation have increased, as have those for some licensing district offices.

There have also been significant demographic changes in the population of children served. The children are more medically and/or behavioral challenged. For those with medical needs, more children are technologically dependent and dependent on a greater number of technological devices, and a greater number have three of more medical problems. For those with behavioral needs, most display challenging, maladaptive behaviors. They are admitted to centers because the family home, community residential facility, and/or school are not able to address these behaviors. They are often ambulatory, aggressive, and display acting out behaviors. Injuries occur often with this group of individuals.

Finally, the emphasis of developmental center treatment programs is appropriately placed on the provision of services in an environment which emphasizes personal freedom and rights, rather than restrictive forms of intervention to control inappropriate behavior. Emphasis is placed on using

the least restrictive form of behavior intervention to appropriately deal with the presenting behavior. This may have a greater potential to result in some type of incident which is then reported under current reporting and client record documentation procedures and requirements.

It is important to note that although each center carefully reviews and analyzes trends in special incident reports, the auditors focused on selected categories of incidents. Therefore, both centers involved will need to analyze the same data and complete necessary followup action to determine the specific reasons for the increase in the number of incidents. The Department will need to retrieve the specific data and analysis from the audit staff.

CHAPTER FIVE: APPENDIX A: ADDITIONAL ANALYSES CONDUCTED AT SOME OF THE DEVELOPMENTAL CENTERS.

The auditors conducted additional audit tests at some of the developmental centers to answer questions raised by interested parties including parents of some of the clients at the centers.

AG AUDIT FINDINGS

A. Other areas related to clients' rights.

This area was reviewed because parents of clients and other interested parties made certain allegations directed specifically at Sonoma Developmental Center. Therefore, at SDC, the auditors also investigated whether children had recreational opportunities and whether the center was placing violent children in residences with passive children and placing small children with larger children or adults.

1. Recreation Equipment.

Allegations were made that children living at SDC did not have access to recreational equipment. The auditors reviewed documents at SDC showing that the center had purchased recreational equipment for the Oaks Unit, which is especially for children with behavioral problems. The auditors recorded items purchased since January, 1990, and visited the Oaks Unit to verify that a sample of these items were in place in the residence. The auditors confirmed that SDC had spent at least $4,600 on recreational equipment for the Oaks Unit.

The equipment included such items as playground equipment costing $2,700 and toy balls and stereo equipment. The value of the items in the sample was 82 percent of the value of all the recreational items shown on the purchase documents for the Oaks Unit.

2. Placement of Children into Residences.

There were allegations that SDC was placing violent and self abusive children in the same residences with passive children, and large children were residing in units with small children. It was alleged that this was resulting in injury to some clients. The auditors reviewed reports of incidents that occurred between April 23, 1987 and June 12, 1990, where clients injured other clients who were under age 18. The auditors then determined whether the injured clients had been residing on units with other clients who were known by staff to be aggressive. Finally, the auditors interviewed staff to determine how they made decisions about where clients should reside, and analyzed data to show which residential units housed clients under age 13 with clients over 18 years of age.

With regard to the Oaks Unit, two actions have been taken. First, almost all of the clients under age 18, and all clients under age 14, who have serious behavior problems including aggression but who do not require SNF care, have resided on the Oaks Unit since about August, 1990. There are a few clients over 14 years of age who do not require SNF care and have serious self-injury and cannot live on the Oaks Unit; they are appropriately placed on other units. Second, the center has increased the staffing levels in the Oaks Unit. The auditors confirmed that staffing was at least 40 percent above the minimum number of persons needed to meet the legal requirements for staffing levels. As of August, 1990 all clients residing in the Oaks Unit were under age 18 years. The only units which may have clients under age 13 residing with those over age 18 is in skilled nursing settings. In such cases the clients medical need are usually the major factors in determining where clients should reside.

B. Other Areas Related to Direct Care Staffing.

1. Most Developmental Centers Are Offering Staff Training Classes That Deal Specifically With The Needs of Children.

The auditors completed a test to determine if the developmental centers provide training courses to staff that address the needs of children. The auditors found that all centers offered training to staff that dealt specifically with the needs of children. Also, all centers offered training in detecting or reporting child abuse, or both, during FY 1989-90.

2. One-To-One Care.

In addition to state staffing standards, some clients may require an additional staffing complement to meet special short- or long-term needs. Two centers reviewed did have clients who required 1:1 care, both centers had sufficient staff present in the units to provide for the 1:1 staffing needs and still meet, with the remaining staff, state and federal staffing requirements.

C. Other Areas Related To Clients' Program Plans.

The auditors conducted additional analyses of clients' IPPs and IEPs to determine whether: centers promptly completed the clients' IPP; the appropriate persons attended the IDT meetings; the clients were attending classes in the least restrictive environments, and; the centers were maintaining attendance records for their clients.

1. Developmental Centers Are Promptly Completing The Clients' Initial Individual Program Plan.

The auditors reviewed a sample of 23 client records at Sonoma to determine if staff completed clients' initial IPPs within 30 days of the dates the clients were admitted. The review disclosed 6 instances where staff took more than 30 days to complete the clients' initial IPPs. However, in 5 of the 6 cases, staff exceeded the 30-days by no more than 2 days. In the remaining case, it was exceeded by 13 days due to the mothers request to delay the conference so she could attend.

2. Interdisciplinary Team Members Are Attending Meetings To Review The Client's Individual Program Plans.

   For the same 23 clients at Sonoma, the auditors reviewed the list of IDT members to ensure that all the members attended the team meeting. In all 23 cases, the appropriate members of the IDT had attended the most recent IPP and IEP meetings.

3. Developmental Centers Are Providing Educational Services To Their Clients In The Least Restrictive Environment.

   The auditors used the same sample of 60 client records they selected to review the documentation of progress toward meeting IEP objectives, and determined whether clients' educational settings were consistent with the settings recommended by the IDT. The auditors found that clients are receiving special education and related services in the most appropriate settings as indicated in the clients' IEPs.

   For the 60 clients, in most cases, clients were attending classes in the appropriate setting whether on grounds at the center or in schools within the community. At the time of the audit, two clients of the 60 should have been attending classes at community schools. They were enrolled in classes at one center rather than in community schools; this was due to no available space in the community classes for clients with their needs. However, one of these clients was since placed into a community classroom in November, 1990. The other client is on active referral to be placed into a community class.

4. Attendance

   To determine if clients were attending classes and whether staff at the centers were properly maintaining attendance records, the auditors used a random sample of 60 clients from three centers. The auditors found that the developmental centers and community schools are properly recording attendance. In addition, the centers or the county schools in which the clients were enrolled properly maintained attendance records for all 60 clients in the sample.

CLARIFICATION AND RESPONSES TO SPECIFIC REFERENCES IN THE REPORT

A. ADMISSIONS TO DEVELOPMENTAL CENTERS

1. The description of admission requirements on page 2 could be misleading. The commitment of persons by reason of insanity is generally used for mental health programs and is not usually used for admissions to developmental centers. In this case, the reason for admission to a developmental center would be due to presenting a danger to self or others.③

2. Description of Services, Staffing and Program Planning.

   The following is offered to elaborate on the services provided by developmental centers, the staffing resources and services planning process. Developmental centers provide services to clients who have been determined to required structured habilitation programming, training, care, and supervision in a health care setting on a 24-hour basis. These services include a full range of medical, nursing, and dental services, either provided directly or through contract; restorative and specialized services, such as occupational and physical therapy, speech and language development and therapy; assessment and program planning and development; habilitation training and skill development, including self-care and independent living skills, behavior management, education and vocational training, leisure and recreation skills development; and other specialized services required to facilitate client growth, increase their functional skills, and promote and maximize their independence.

   Staff at each of the developmental centers include physicians in a number of medical specialties; psychologists, teachers, social workers, vocational instructors, rehabilitation therapists--including recreational, occupational, and physical therapists, speech pathologists, audiologists, nurses, and psychiatric technicians.

   Developmental centers make use of an interdisciplinary team, which is composed of staff such as those listed above and the client and his/her family, to design and develop an individualized program plan, with time-limited goals and objectives and a schedule of services and activities, for each client. The plan is based on the results of comprehensive assessments completed and updated annually for each client, which indicate the client's strengths and needs for services. Staff at the developmental centers continually monitor the implementation of the plan, evaluate its

tiveness, and revise and update it as needed, but at least annually.

B. POPULATION TRENDS

Pages S-3, 3 presents total population and childrens population data. The total population of clients in the seven developmental centers has decreased .5 percent (not a 6 percent increase) from 6,819 clients (not 6,049) at the end of the fiscal year 1986-87, to 6,788 clients (not 6,439) at the end of the fiscal year 1989-90. The auditors used data taken from Client Development Evaluation Report (CDER) files. Due to the lag time on processing the CDERs, there are fewer CDER files than there is actual population. This accounts for the difference in the numbers. The 6,049 provided to the auditors for fiscal year 1986-87 was probably an error as the June 1987 data (Californians With Developmental Disabilities, July 1987) identifies 6,466 clients with CDERs on file.④

Table 1 on page 3 appears to have an error in the Community Placement Plan number for fiscal year 1989-90; the number should read 530 rather than 503.⑤ The actual placements and admissions on this table do not account for all client movement that occurs in the developmental centers. The following table gives a complete picture of all client movement, including short-term admissions.

	1986-87	1987-88	1988-89	1989-90	Total
Actual Placements	526	495	535	469	2,025
Number of Developmental Center Admissions	599	638	671	537	2,445

Page 4 states that the Department reported in October 1989 that from July 1987 through July 1989 it admitted 137 clients to developmental centers because of community facility closures, mostly due to licensing violations. Furthermore, the Department stated that only 14 of these clients had been placed back into the community care facilities. This may have been correct at the time the study was conducted. At this point in time, 32 of these clients have returned to the community. The closure of community facilities is a relatively minor factor in developmental center admissions. For the period from July 1, 1989, to June 30, 1990, there were 482 admissions to developmental centers. Thirty-one (6.4 percent) of these clients were from community care facilities which closed, and 47 (9.8 percent) were from licensed health facilities that closed.

C. LICENSING AND CERTIFICATION

There are several references in the narrative to the potential loss of certification, and thus federal financial participation, and the loss of licensure. These actions should be placed in perspective. There must be a continued pattern of serious deficiencies which a facility has been unwilling or unable to correct in order for such sanctions to be imposed. Although this is perhaps a course of action which could, in the final analysis, be taken, it is somewhat alarmist. The Department does not believe that centers are in imminent danger of loss of certification or licensure due to the issues noted in this report.⑥

D. ACCREDITATION

It should be noted that accreditation is a voluntary process. The Department has recently completed a lengthy and self-initiated review of its quality assurance efforts. The department's review process included a special commission, composed of parents, professionals in the field of developmental disabilities, and representatives of consumer organizations and governmental agencies. As a result of the review, the department intends to emphasize the achievement of the highest quality services possible, but to seek accreditation as a by-product of this effort. In accordance with the recommendations included in our quality assurance report, the developmental centers division intends to work with the Accreditation Council to develop revisions to the current accreditation process for developmental centers; to develop procedures for new survey schedules; to train developmental center staff; and to design and complete focused surveys in selected areas, such as behavior management, rights, and habilitation programming and documentation. The Department further intends to establish a quality assurance branch in its headquarters office to coordinate and support the developmental centers' quality assurance efforts.

E. CHAPTER ONE:

The references to the annual licensing and certification survey at Fairview Developmental Center are somewhat misleading (page 17). The report indicates that Fairview was "cited" for giving a behavior modification medication to a client without a current consent on file. The facility did in fact receive a deficiency for this error, but it was not "cited" in the sense of receiving a "citation"--a more serious violation which includes a civil penalty.⑦

Further, the wording of the report could lead the reader to believe that Fairview was recommended for decertification on

the basis of its failure to obtain a consent. This was not the case.⑧ Though consents and related client protection issues were a factor, other problems, largely related to a breakdown in active treatment programming following severe staffing cutbacks that had resulted from statewide budget restrictions, contributed to the recommendation of decertification. Decertification was averted not just by the presentation of a plan of correction, but by actual correction of the conditions that had led to the deficiencies--corrections which were verified in a follow-up survey conducted by the Department of Health Services in October 1989.

F. CHAPTER TWO:

Camarillo State Hospital and Developmental Center does not agree with the percentage of noncompliance with the Department's staffing guidelines cited in Table 4 on page 33. The percentage below Department guidelines cited is 20.9 percent, almost double the next highest center. The level-of-care nursing vacancies including salary savings averaged 19.15 percent. However, when services provided with overtime worked and Nursing Registry hours worked are factored in, the average vacancy rate was 13.01 percent.⑨

G. CHAPTER THREE:

The statements cited by one special education instructor on page 46 do not reflect the Department's philosophy, practice or position. The instructor said recording frequencies are inappropriate because clients' progress was so minimal. We do not agree. Another instructor said, she has other duties and believes that developmental centers have a staffing problem leading to more students in her class than she can effectively teach. This teacher's class size is 8-14 students and she is usually assisted by an instructional aide. Regular review by external agencies has shown compliance with federal and state regulations regarding class size.

H. ADDITIONAL ANALYSES:

Reference is made on page 58 to an August 1989 survey to <u>recertify</u> Sonoma Developmental Center for participation in the Medi-Cal system. The reader may conclude that Sonoma had previously been decertified, and therefore was in need of recertification. Annual surveys are conducted to verify <u>continued</u> compliance with Medicaid requirements; facilities, technically, are not recertified annually. Provider agreements are renewed if the facility remains in compliance.

Comments The Office of the Auditor General's Comments on the Response From the Department of Developmental Services

① The audit report does not contain elaborate descriptions of the responsibilities of the Behavior Management and Human Rights Committees. We mentioned only those responsibilities that relate directly to the protection of the clients' right to be free from unnecessary or excessive restraint while indicating that these committees have other responsibilities. We accurately stated that the Behavior Management Committees are responsible for ensuring that the least restrictive form of restraint is used on each client and that the clients or the clients' parents or guardian have consented to the use of programmed highly restrictive interventions (HRI). Further, we accurately stated that the Human Rights Committees have the responsibility to protect the right of clients to refuse the use of programmed HRIs.

② As we stated on page 72 of the report, we asked the president of the California Association of Psychiatric Technicians to assist us in developing appropriate language for the survey. In addition, we double-checked the responses of the survey respondents who stated that direct care staff had been diverted for a full shift by conducting a follow-up telephone survey with those survey respondents. Finally, during our review of staffing records at Sonoma Developmental Center, we found that the staff time records did not specify the type of job assignments that a direct care staff person was assigned to on a particular day. Therefore, it was not possible to review staffing records to determine if staff had been diverted to perform nonclient care duties, as the department's response suggests.

③ The description of admission requirements on page 2 of our report was taken directly from the Long Range Plan 1988-1993 issued by the Department of Developmental Services (department).

④ We used data taken from the Client Development Evaluation Report (CDER) because the CDER contains several types of information such as clients' ages, types and levels of developmental disabilities, physical and psychological health, and adaptive and maladaptive behaviors.

⑤ Number changed to 530.

⑥ In one case mentioned in the report, the Department of Health Services did actually recommend that Fairview Developmental Center be decertified for participation in the Medicaid program. At that time, the center was in imminent danger of decertification. Further, the report mentions only the potential for federal decertification as a result of developmental center staff failing to document that they had performed periodic assessments of clients in physical restraint or keeping clients in locked time out for more than 60 minutes. We do not imply that federal authorities are contemplating such action.

⑦ We revised the applicable sentence on page 17 of the report.

⑧ The report does not state that Fairview was recommended for decertification solely on the basis of its failure to obtain a consent. Rather, the text of the report states that the DHS' recommendation that Fairview Developmental Center be decertified was based on the September 1989 survey.

⑨ As we point out on page 71 of our report, we tested the developmental centers' compliance with the department's staffing guidelines by reviewing each center's vacancy reports and comparing the average annual number of vacant staff positions with the department's staffing guidelines. We did not factor in the use of overtime or temporary help when calculating vacancy rates for any of the developmental centers. On November 27, 1990, the executive director signed a statement indicating that he did not disagree with our calculation of Camarillo's vacancy rate for fiscal year 1989-90.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps